

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

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TA No.58 of 2020 (O&M)

Date of decision:14.12.2022

Madhu

...Petitioner(s)

v

SonuKhurana and another

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr.AakashJuneja,Advocate for the petitioner.

Mr. Rahul Makkar, Advocate for respondent No.1.

NIDHI GUPTA, J.(ORAL)

1. Prayer in this petition filed by petitioner-wife is for transfer of the petition bearing No.DMC/1443/2019 filed by respondent No.1-husband under Section 13 of the Hindu Marriage Act,1955, titled “Sonu Khurana vs. Madhu and another” pending in the Court of Principal Judge, Family Court, Bathinda, to a court of competent jurisdiction at District Court, Jagadhri, Yamuna Nagar.

2. Learned counsel for the petitioner, inter alia, submits:

i) that the marriage between the petitioner and respondent No.1 was solemnized on 10.12.2002 according to Hindu rites and rituals.

ii) that two children were born out of this wedlock.

iii) that the petitioner is residing with her aged father and handicapped brother at Yamuna Nagar.

iv) that the petitioner has no source of income.

v) that the distance between her place of residence and place of proceedings is 275 kms. (one side).

vi) that the petitioner has also filed complaint under the Protection of Women from Domestic Violence Act, 2005, at Yamuna Nagar alongwith a complaint in Women Cell in Yamuna Nagar.

3. Learned counsel for respondent No.1 opposed the present petition and states that unlike the petitioner, the respondent is working hard as he has to support both the children who are residing with him. It is submitted that the respondent has to provide the children all the amenities required for their physical welfare, as also all love and emotional support is also provided only by him as their mother has deserted the matrimonial home. It is further submitted that in this situation it will be more inconvenient and problematic for him to travel to Yamuna Nagar, whereas, as the petitioner is not working and has no responsibility of the children either, therefore no inconvenience will be caused to her.

4. I have heard learned counsel for the parties.

5. I find merit in the submissions advanced on behalf of the respondent. This Court is well aware of the fact that preponderance of law in such-like cases of transfer emanating from matrimonial disputes is in favour of the wife. However, in view of the above noted facts and circumstances of the present case, wherefrom it is clear that it is the respondent who is solely responsible for the complete welfare of the children who are in his care and custody. On the other hand, the petitioner has been unable to show as to why she is unable to travel. Whereas, it is not in dispute that the respondent is working and he has the added responsibility of looking after the daily needs as well as provide all emotional and mental support to the children who are in his care and custody.

6. Moreover, in other similar cases like this present one, the Hon'ble Supreme Court, as well as this Court have refused relief to the wife. One such case which may be referred to is: **(2006) 9 SCC 197**

‘Anindita Das Vs. Srijit Das’ wherein Hon’ble Supreme Court under similar circumstances dismissed the wife’s application seeking transfer of petition filed by the husband. Reference in this regard may also be made to two cases of this Court where, in similar circumstances this Court had dismissed transfer applications filed on behalf of the wife. These are: **TA no. 126 of 2018 Smt. Akhwinder Kaur Vs. Sh. Gurpreet Singh;** and **TA No. 299 of 2019 Nisha alias Manisha vs. Amarveer Yadav.**

7. Accordingly, in view of the facts as noted above, this petition stands dismissed. Pending applications, if any, stand disposed of.

14.12.2022

ashok

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No

(Nidhi Gupta)

Judge