

TA-116-2023

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2023:PHHC:102967

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

TA-116-2023 (O&M)
Date of decision: 09.08.2023

Manju Suhag @ Manu Antil

....Petitioner

Vs.

Ashish Dhankar

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. S.S. Patter, Advocate
for the petitioner.

Mr. Ajay Kadyan, Advocate
for the respondent.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition is for transfer of the petition bearing No.GW/24/2022 titled as Ashish Dhankar Vs. Manju Suhag @ Manju Antil filed by the respondent-husband pending before the Addl. Principal Judge, Family Court, Rohtak to the competent Court of jurisdiction at Sonapat.

Learned counsel for the respondent submits that he has no objection, if the aforesaid petition, which is now pending in the Court of Addl. Principal Judge, Family Court, Rohtak to the Principal Judge, Family Court, Sonapat, however, only objection taken is that the respondent-husband is presently residing in Germany and he will be visiting India from 21.09.2023 to 13.10.2023 and a direction be issued to the transferee Court at

Sonepat to fix a date for meeting the child during that period.

Learned counsel for the petitioner-wife has no objection to the same.

Learned counsel has relied upon the judgments **Sumita Singh Vs. Kumar Sanjay, 2002 SC 396** and **Rajani Kishor Pardeshi Vs. Kishor Babulal Pardeshi, 2005(12) SCC 237**, wherein the Hon'ble Supreme Court observed that *while deciding the transfer application, the Courts are required to give more weightage and consideration to the convenience of the female litigants and transfer of legal proceedings from one Court to another should ordinarily be allowed, taking into consideration their convenience and the Courts should desist from putting female litigants under undue hardships.*"

Learned counsel has further relied upon **N.C.V. Aishwarya Vs. A.S. Saravana Karthik Sha, 2022 Live Law (SC) 627**, wherein the Hon'ble Supreme Court held as under: -

"The cardinal principle for exercise of power under Section 24 of the Code of Civil Procedure is that the ends of justice should demand the transfer of the suit, appeal or other proceeding. In matrimonial matters, wherever Courts are called upon to consider the plea of transfer, the Courts have to take into consideration the economic soundness of both the parties, the social strata of the spouses and their behavioural pattern, their standard of life prior to the marriage and subsequent thereto and the circumstances of both the parties in eking out their livelihood and under whose protective umbrella they are seeking their sustenance to life. Given the prevailing

socioeconomic paradigm in the Indian society, generally, it is the wife's convenience which must be looked at while considering transfer.

Further, when two or more proceedings are pending in different Courts between the same parties which raise common question of fact and law, and when the decisions in the cases are interdependent, it is desirable that they should be tried together by the same Judge so as to avoid multiplicity in trial of the same issues and conflict of decisions.”

It is well settled that while considering the transfer of a matrimonial dispute/case at the instance of the wife, the Court is to consider family condition of the wife, custody of the minor child, economic condition of the wife, her physical health and earning capacity of the husband and most important, convenience of the wife i.e. she cannot travel alone without assistance of a male member of her family, connectivity of the place to and fro from her place of residence as well as bearing of the litigation charges and travelling expenses.

After hearing the counsel for the parties, considering the fact that the petitioner-wife will have to bear the litigation expenses and transportation expenses and in view of the judgments in **Sumita Singh's** case (supra), **Rajani Kishor Pardeshi's** case (supra) and **N.C.V. Aishwarya's** case (supra) passed by the Hon'ble Supreme Court, this Court deem it appropriate to allow the present petition, subject to the following conditions:-

- 1. The petition bearing No.GW/24/2022 titled as Ashish Dhankar Vs. Manju Suhag @ Manju Antil, pending before the Family*

- Court, Rohtak will be transferred to the competent Court of jurisdiction at Sonapat.*
- 2. The District Judge, Sonapat will assign the said petition to the competent Court of jurisdiction.*
 - 3. The Family Court, Rohtak is directed to transfer all the record pertaining to the aforesaid case to District Judge, Sonapat.*
 - 4. The parties are directed to appear before the Family Court, Sonapat on 04.09.2023.*
 - 5. The Family Court, Sonapat will make all the endeavour to refer the case before the Mediation and Conciliation Centre for exploring the possibility of amicable settlement between the parties.*
 - 6. The Court concerned, where the litigations between the parties are pending, will accommodate them with one date in one calender month.*

The Family Court, Sonapat will fix two dates between 21.09.2023 and 13.10.2023 for arranging the meeting of the respondent-husband with the minor child namely Harditya in the Mediation and Conciliation Centre at Sonapat, subject to the condition that the respondent-father will clear all arrears due before the said date.

Present petition is disposed of accordingly.

[ARVIND SINGH SANGWAN]
JUDGE

09.08.2023

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Whether speaking/reasoned : Yes/No

Whether reportable: Yes/No