

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

202

**TA No.441 of 2021 (O&M)
Date of decision: 17.02.2023**

Sapna Devi

...Petitioner(s)

v

Ram Juwari

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Ms. Aarti Sharma, Advocate for
Mr. Shalender Mohan, Advocate for the petitioner.

Mr. SP Pilania, Advocate for the respondent.

NIDHI GUPTA, J.(ORAL)

1. Prayer in this petition filed by petitioner-wife is for transfer of the petition filed by respondent-husband under Section 9 of the Hindu Marriage Act, 1955, titled "Ram Juwari vs. Sapna Devi" pending in the Court of Principal Judge, Family Court, Jind, to a court of competent jurisdiction at Hisar.

2. Learned counsel for the petitioner, inter alia, submits:
- i) that the marriage between the parties was solemnized in the year 2008.
 - ii) that two daughters were born out of this wedlock, who are admittedly in the care and custody of the respondent-husband.
 - iii) that the petitioner is residing with her aged parents at Hisar.
 - iv) that the distance between her place of residence and place of proceedings is 70 kms. (one side).
 - v) that the following cases are pending between the parties at Hisar:-
 - a. Petition under Section 125 Cr.P.C.
 - b. Petition under the Protection of Women from Domestic Violence Act, 2005.

c. Application dated 29.12.2020 before SHO,
Hisar/SP, Hisar.

3. Learned counsel for the respondent opposed the present petition and states that unlike the petitioner, respondent-husband is working hard as he has to support his daughters who are residing with him. It is submitted that 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 Hisar.

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 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. Further, connected TA No.453 of 2021 filed by the petitioner for transfer of custody petition from Jind to Hisar has been dismissed by this Court vide order of even date.

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.

17.02.2023

ashok

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No

(Nidhi Gupta)

Judge