

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

TA 379/2022 (O&M)

Date of decision: 18.01.2023

Sudesh

.....**Petitioner**

Vs.

Seema and another

.....**Respondents**

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Anil Kumar Sharma, Advocate for the petitioner
None for respondent no.2 despite service.

Nidhi Gupta, J.

1. Prayer in this petition is for transfer of petition under Section 13 of the Hindu Marriage Act (Annexure P-1) titled as “Seema v Suresh” bearing pending in the Court of Principal Judge, Family Court, Hisar to a court of competent jurisdiction at Jhajjar.

2. It is borne out from the averments made in the petition that marriage between respondent nos. 1 and 2 was solemnized on 10.6.2003 according to Hindu rites and ceremonies at Hisar. Respondent no.1 filed the aforesaid petition u/s 13 of the HMA at Hisar against respondent no.2-husband wherein petitioner herein, who is Bhabi of respondent no.2, has been arrayed as respondent no.2 as respondent no.1-wife has levelled allegations of illicit relations between petitioner-Bhabi and respondent no.1. Though, in the divorce petition it is averred that one male child was born out of the wedlock of respondents 1 and 2 on 19.12.2007, but at the time of hearing of the present

petition on 11.7.2022, learned counsel for the petitioner stated that two children

namely Kohinoor and Happy were born out of the wedlock of the respondents 1 and 2, who are presently in the care and custody of the petitioner since respondent no.1- their mother - has left her matrimonial home and started living with some other person. To support this averment, copy of “Family Identity Card” issued by Citizen Resource Information Department, Haryana has been annexed with the petition as Annexure P-2, wherefrom the said averments stand proved.

3. Despite service, no one has put in appearance on behalf of respondent no.2, whereas respondent no.1 is stated to have left the last known address.

4. Learned counsel for the petitioner submits that transfer of the said petition u/s 13 of the HMA has been sought on the ground:

a) that petitioner is looking after two minor children of respondents 1 and 2 as social responsibility along with her own children.

b) that petitioner is burdened with the daily household work besides attending to agricultural work, cattle breeding and taking care of her children alongwith that of two minor children of litigating respondents 1 and 2.

c) that petitioner has also to take care of her in-laws who are more than 60 years old.

d) that she has no means of income.

e) that one side distance between Jhajjar and Hisar is 150 kms.

f) that the aforesaid petition u/s 13 has been filed by respondent no.1 with the sole motive of harassing the petitioner and her family, and that the petitioner has been unnecessarily arrayed as party-respondent in the matter when in actual fact, the allegations levelled by respondent No. 1 are false and baseless.

g) that petitioner apprehends danger to her life as respondent no.1 is having illicit relations with one person having criminal background.

5. After hearing the learned counsel for the petitioner and keeping in view the peculiar facts and circumstances of the present case, especially the fact that the petitioner is taking care of children of the litigating couple besides her own children, as well as shouldering her day-to-day responsibilities of a village life, this Court deems it appropriate to allow the present petition, subject to the following conditions: -

a) The petition filed by respondent no.1, as described in para 1 above, is transferred to a Court of competent jurisdiction at Jhajjar.

b) The Id. District Judge, Hisar is directed to transfer complete record pertaining to the aforesaid case to District Judge, Jhajjar.

c) The parties are directed to appear before the District & Sessions Judge, Jhajjar on 27.2.2023.

d) The District Judge, Jhajjar will assign the said petition to the Court of competent jurisdiction.

6. The concerned Court at Jhajjar will make all endeavour to refer the case before the Mediation and Conciliation Centre for exploring the possibility of some amicable settlement between the parties.

7. The Court concerned, will accommodate them with one date in one calendar month.

8. However, liberty is granted to the respondents to revive this petition, if they intend to contest the same, provided that:-

- (a) The respondents will file separate affidavits giving undertaking to pay Rs.1,000/- each per day, to the petitioner for attending the Court proceedings at Hisar on each and every date of hearing.
- (b) The respondents will bring a demand draft of Rs.12,500/- each , drawn in favour of petitioner, towards the litigation expenses to pursue the case at Hisar in case the respondents opt to contest this petition.

9. Disposed of as above.

(Nidhi Gupta)
Judge

18.01.2023
Joshi

Whether speaking/reasoned	Yes
Whether reportable	Yes/No