

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

CRM-M-24357-2022

Date of Decision: September 12, 2023

Baljit Kaur

... Petitioner

Versus

Balwinder Singh and others

... Respondents

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Vishal Goel, Advocate,
for the petitioner.

None for the respondents.

Vivek Puri, J.

1. The petitioner is seeking to transfer of the application under Section 12 of the Protection of Women from Domestic Violence Act (for short 'the Act') bearing No. COM/51/2021 titled as "Baljeet Kaur vs. Balwinder Singh and others" filed by the petitioner, pending in the Court of learned Sub Divisional Judicial Magistrate, Dhuri to the Court of competent jurisdiction at Patiala.

2. Notice issued to the respondent no.6 has been received back duly served, but none has appeared on his behalf. The other respondents have already been served, but none has appeared to contest the petition.

3. The marriage of the petitioner was solemnized with the respondent no.1 on 09.03.2001 and three children

have been born from the wedlock. It has been stated that one child is residing with the petitioner and other two children are in the custody of respondent no.1. The matrimonial dispute has cropped up between the parties. The petitioner has instituted the application under Section 12 of the Act in the Court of learned Sub Divisional Judicial Magistrate, Dhuri.

4. I have heard learned counsel for the petitioner and perused the record.

5. Learned counsel for the petitioner contends that at the earlier instance, the petitioner was residing with her parents at Dhuri and consequently, the application under Section 12 of the Act was instituted at that place. The son of the petitioner is pursuing his studies in Class XII in Patiala and accordingly, she has shifted her residence from Dhuri to Patiala. Moreover, the respondent no.1 has also instituted a petition under Section 13 of the Hindu Marriage Act for dissolution of marriage in the Family Court, Patiala. Consequently, the transfer of the application under Section 12 of the Act to the Court of competent jurisdiction at Patiala has been sought.

6. The convenience of the wife is required to be looked into while considering the transfer of a case and in this regard, reference has been made to the decision rendered in **Civil Appeal No. 5218 of 2022 titled "Ruchi**

Rawat vs. Principal Judge, Family Court Etah and another, **decided on 05.08.2022 (S.C.), N.C.V. Aishwarya vs. A.S. Saravana Karthik Sha, 2022, AIR (Supreme Court) 4318** and **Sumita Singh vs. Kumar Sanjay and another, 2001 (10) SCC 41.**

7. The petitioner has put forth a specific and categoric case that the son, who is residing with her, is pursuing his studies in Patiala and consequently, she has shifted her residence from Dhuri to Patiala. Moreover, the husband of the petitioner has also instituted a petition under Section 13 of the Hindu Marriage Act for dissolution of marriage in the learned Family Court at Patiala. The distance between Dhuri and Patiala is stated to be about 75 kms. Moreover, the petition under Section 13 of the Hindu Marriage Act instituted by the respondent no.1 is already pending in the Court at Patiala. As such, the ends of justice will meet, in the event, the application under Section 12 of the Act instituted by the petitioner against the respondents is transferred to the Court at Patiala.

8. Resultantly, instant petition is allowed and it is directed that the application bearing No. COMA/51/2021 titled as “Baljeet Kaur vs. Balwinder Singh and others” filed by the petitioner pending in the Court of learned Sub Divisional Judicial Magistrate, Dhuri is transferred to the competent Court at Patiala. The Court of learned Sub

Divisional Judicial Magistrate, Dhuri shall transmit the record of the case to the learned District & Sessions Judge, Patiala, who shall entrust the case to the competent Court having jurisdiction in the matter.

September 12, 2023
vk

(Vivek Puri)
Judge

Whether reportable : Yes/No
Whether speaking/reasoned : Yes/No