

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

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**TA No.598 of 2022 (O&M)
Date of decision: 15.02.2023**

Venus

...Petitioner(s)

vs

Sunita Lamba and others

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Lupil Gupta, Advocate for the petitioner.

Mr. SushilSaini, Advocate for the respondents.

NIDHI GUPTA, J.(Oral)

1. Prayer in this petition filed by petitioner-wife is for transfer of Civil Suit No.72-2022 titled 'Venus vs. Sunita Lamba and others' filed by petitioner herself pending in the Court of Civil Judge, Jr. Div., Khanna, District Ludhiana to a court of competent jurisdiction at Chandigarh.

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

i) that the marriage of the petitioner and respondent No.2 was solemnized on 30.11.2020.

ii) that no child was born out of the wedlock.

iii) that distance between place of residence and place of proceedings is 66 kms. (one side).

iv) that the following cases are already pending between the parties at Chandigarh:-

a. Petition under Section 125 Cr.P.C.

b. Complaint under the Protection of Women from Domestic Violence Act, 2005.

3. Learned counsel for the respondents opposed the present petition and states that the suit property is situated in Khanna, therefore,

cause of action has arisen in Khanna, and therefore, only the Civil Court

at Khanna has territorial jurisdiction to try the suit in question. It is further submitted that the petitioner and her family members had trespassed and assaulted the respondent no. 2 and his family members, in respect of which FIR No. 27 dated 25.2.2022 is pending at PS Khanna against the petitioner.

4. I have heard learned counsel for the parties.

5. I find merit in the submissions advanced on behalf of the respondents. This Court is well aware of the 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:

a) the petitioner had herself only filed the Civil Suit of which transfer is being sought, in Khanna;

b) only the Civil Court at Khanna has territorial jurisdiction to try the suit in question as suit property is situated in Khanna;

c) Moreover, in the subject Civil Suit (Annexure P-2) in the memo of parties, petitioner/plaintiff has shown herself as resident of Khanna, and prayer in the said suit is for permanent injunction restraining the defendants/respondents herein from interfering in her peaceful possession of the suit property;

d) FIR is also pending against the petitioner in Khanna;

e) Even Section 13 HMA petition (annexure P-13) filed by respondent no. 2 against the petitioner is pending before Family Court, Khanna.

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

15.02.2023

ashok

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No

(Nidhi Gupta)
Judge