

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

Transfer Application No. 760 of 2023 (O & M)

Date of decision:-02.06.2023

Pooja Dutta

.....Petitioner

Vs

Ramesh Dutta and another

.....Respondents

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Ms. Sanamjeet Kaur, Advocate
for the petitioner.

NIDHI GUPTA, J.(Oral)

1. Prayer in this petition filed by petitioner is for transfer of the Civil Suit bearing No. CS/3986/2021, titled as “Ramesh Dutta vs. Pooja Dutta and another” (Annexure P-1) restraining the defendants (petitioner and respondent No.2 herein) from interfering in the peaceful physical possession of the suit property [detailed in head-note of the Civil Suit (Annexure P-1)], filed by father-in-law/plaintiff (respondent No.1 herein), pending in the Court of learned Civil Judge (Sr. Divn.) Ludhiana to a Court of competent jurisdiction at Sirsa.

2. Learned counsel for the petitioner submits :-

- i) That the marriage between the petitioner and son of the respondent No.1, namely, Komal Dutta, was solemnized on 13.1.2005 according to Hindu rites and rituals.
- ii) That a male child was born out of the wedlock, who is around 17 years of age and is in the care and custody of the petitioner.
- iii) That the petitioner is living separately from the company of the respondents and living with her parents at their mercy at Sirsa.

- iv) That the petitioner is unemployed, having no source of income and totally dependent upon her parents.
 - v) That the proceedings arising out of FIR No.595 dated 01.11.2021, under Sections 498-A, 406, 323, 313 and 34 IPC, registered at Police Station City, Sirsa, filed by the petitioner against the respondents, are pending in the Court having competent jurisdiction at Sirsa.
 - vi) That the distance between place of residence of the petitioner i.e. Sirsa and the place of proceedings of the Civil Suit (aforementioned), filed by the respondent No.1- father-in-law, pending before the Civil Judge (Sr. Divn.) Ludhiana, is about 200 kilometers on one side.
 - vii) That there is no proficient male member in the family of petitioner who can accompany her to the Court of proceedings at Ludhiana because father of the petitioner has recently suffered from Paralytic attack and is in severe condition.
3. It is *inter alia* on these grounds that petitioner prays for transfer of the case, as detailed in para 1 above.
4. I have heard learned counsel for the petitioner.
5. Besides the facts as noticed hereinabove, the legal position in such like cases as the present one, is well established. In this regard, judgment of the Hon'ble Supreme Court rendered in **N.C.V. Aishwarya vs A.S. Saravana Karthik Sha," 2022 Live Law (SC) 627**, wherein the Hon'ble Supreme Court has held as under:-

“9. 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.

10. 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.”

6. Further reliance can be placed upon the judgments in **“Sumita Singh vs Kumar Sanjay”, 2002 SC 396** and **“Rajani Kishor Pardeshivs Kishor Babulal Pardeshi”, 2005(12) SCC 237**, wherein the Hon’ble Supreme Court has 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.”

7. In view of the aforesaid, this Court deems it appropriate to allow the present petition, subject to the following conditions:-

- a) The Civil Suit bearing No. CS/3986/2021, titled as “Ramesh Dutta vs. Pooja Dutta and another” (Annexure P-1) filed by respondent No.1-father-in-law, pending in the Court of learned Civil Judge (Sr. Divn.) Ludhiana is transferred to a Court of competent jurisdiction at Sirsa.
- b) The Id. District Judge, Ludhiana is directed to transfer complete record pertaining to the aforesaid case to District Judge, Sirsa.

- c) The parties are directed to appear before the District & Sessions Judge, Sirsa on 07.7.2023.
- d) The District Judge, Sirsa will assign the said petition to the Court of competent jurisdiction.

9. The concerned Court at Sirsa 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.

10. The Court concerned, where the litigation is pending between the parties, will accommodate them with one date in one calendar month.

11. As already noticed above, since the petition is being disposed of without issuing notice to the respondents, accordingly, in these peculiar circumstances, in order to ensure appearance of the parties before the District Judge, Sirsa on 07.7.2023, it is directed that a copy of this order be sent to the respondents through registered post, besides sending a copy of this order to the District Judges concerned through e-mail. Petitioner through her counsel, present in the Court, is directed to ensure her appearance accordingly.

Disposed of.

Pending application(s), if any, stands disposed of.

June 02, 2023
Vijay Asija

(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned

YES/NO

Whether Reportable

YES/NO