

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

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TA No.817 of 2022 (O&M)

Date of decision:12.01.2023

Meena Kumari

...Petitioner(s)

v

Rajeet Kumar

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Sandeep Yadav, Advocate for the petitioner.

Mr. Sudhir Rana, Advocate for the respondent.

NIDHI GUPTA, J.(ORAL)

1. Prayer in this petition filed by petitioner-wife is for transfer of the petition bearing No.HMA-438 of 2020 filed by respondent-husband under Section 13 of the Hindu Marriage Act, 1955, titled "Rajeet Kumar vs. Meena Kumari" pending in the Court of District and Sessions Judge, UT Chandigarh, to a court of competent jurisdiction at Family Court, Kosli.

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

i) that the marriage between the parties was solemnized on 06.05.2006 according to Hindu rites and rituals.

ii) that one son was born out of this wedlock.

iii) that the petitioner is residing with her aged parents at Kosli.

iv) that the distance between her place of residence and place of proceedings is 400 kms. (one side).

v) that the petitioner has also filed complaint under Section 12 of the Protection of Women from Domestic Violence Act, 2005, at Kosli.

vi) that the petitioner has no source of income.

3. Learned counsel for the respondent opposed the present petition

and states that unlike the petitioner, the respondent is working as Assistant

Audit Officer at Accountant General Office at Chandigarh and supporting his 13 year old son who is residing with him and studying in Doon International School at Mohali. It is submitted that the respondent has to provide the child all the amenities required for his physical welfare, as also all love and emotional support is also provided only by him as his mother/the petitioner 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 Kosli, whereas, as the petitioner is not working and has no responsibility of the child either, therefore no inconvenience will be caused to her.

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 child who is 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 the 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 child who is in his care and custody. Further, as per report of the Mediator dated 01.11.2022, the petitioner did not appear before the Mediator.

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.

12.01.2023

ashok

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No

(Nidhi Gupta)
Judge