

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

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TA-1250-2023 (O&M)
Date of decision: 26.09.2023

Sunita Kumari

...Petitioner

Versus

Balbir Bahadur

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- None.

ARVIND SINGH SANGWAN, J. (Oral)

The lawyers have decided to abstain from work today.

Prayer in this petition is for transfer of the petition filed by the respondent-husband under Section 13 of the Hindu Marriage Act, 1955, pending before the Family Court, Hoshiarpur to the competent Court of jurisdiction at Jalandhar.

It is stated that a minor daughter is residing in the care and custody of the petitioner and she, on account of a matrimonial discord, has filed a petition under Section 125 Cr.P.C. as well as a complaint under Section 12 of the DV Act at Jalandhar, which are pending. It is further stated that the respondent-husband has filed the present petition under Section 13 of the Hindu Marriage Act at Hoshiarpur in order to harass the petitioner. It is further submitted that the petitioner is facing great difficulty in prosecuting the said case, as there is a distance of about 60 Kms between the aforesaid two places.

The respondent-husband has stated in the divorce petition that after marriage, he was residing abroad and even at present, he is residing in Dubai and has filed the divorce petition through his special power of attorney.

It is well settled that while considering the transfer of a matrimonial dispute/case at the instance of the wife, the Court is to consider family condition of the wife, custody of the minor child, economic condition of the wife, her physical health and earning capacity of the husband and most important, convenience of the wife i.e. she cannot travel alone without assistance of a male member of her family, connectivity of the place to and fro from her place of residence as well as bearing of the litigation charges and travelling expenses.

Accordingly, considering the fact that issuance of notice to the respondent has the consequences of staying further proceedings before the trial Court, otherwise the petitioner-wife will have to bear the litigation expenses and transportation expenses and in view of the fact that in case notice of motion is issued, even the respondent/husband has to bear the litigation expenses, this Court deems it appropriate to allow the present petition, with the following directions:-

- (i) *The petition filed under Section 13 of the Hindu Marriage Act, pending before the Family Court, Hoshiarpur will be transferred to the competent Court of jurisdiction at Jalandhar.*
- (ii) *The District Judge, Jalandhar will assign the said petition to the competent Court of jurisdiction.*
- (iii) *The Family Court, Hoshiarpur is directed to transfer all the record pertaining to the aforesaid*

case to District Judge, Jalandhar.

- (iv) The parties are directed to appear before the trial Court at Jalandhar within a period of 01 month from today.*
- (v) The Courts concerned, where the cases are pending between the parties, will accommodate them with one date in a calendar month.*

However, liberty is granted to the respondent-husband to revive this petition, if he intends to contest the same, provided that:-

- (i) The respondent will clear all the arrears of maintenance amount, if any, in terms of the petition filed by the petitioner either under Section 125 Cr.P.C. or Section 12 of the Domestic Violence Act or Section 24 of the Hindu Marriage Act.*
- (ii) The respondent will file an affidavit giving undertaking to pay Rs.1,000/- per day, to the petitioner for attending the Court proceedings at Hoshiarpur, on each and every date of hearing.*
- (iii) The respondent will bring a demand draft of Rs.25,000/- towards the litigation expenses of the petitioner to pursue the case at Hoshiarpur, in case the respondent opts to contest this petition.*

26.09.2023

Waseem Ansari

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No