



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

Sr. No.104+210

TA-185-2023 (O&M)

Date of Decision: 19.09.2024

NAVDEEP KAUR @ NEERU

....Applicant

Versus

YADWINDER SINGH

.....Respondent

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present:- Mr. Rahul Jaswal, Advocate for the applicant.

Mr. Ajaivir Singh, Advocate for the respondent.

ARCHANA PURI, J. (Oral)

CM-16036-CII-2024

The present application has been filed for placing on record the reply on behalf of the respondent.

In view of the averments made in the application, same is allowed and the requisite reply is taken on record.

Main Case

The applicant-wife has filed the present application for seeking transfer of the petition under Section 13 of the Hindu Marriage Act i.e. DMC/468/2022, titled '*Yadwinder Singh Vs. Navdeep Kaur @ Neeru*', filed by the respondent-husband, pending in the Family Court, Patiala and she seeks transfer of the same to the Court of competent jurisdiction at Fatehgarh Sahib.

In pursuance of the notice issued, respondent made appearance through counsel and filed reply.

Learned counsel for the parties heard.



At the very outset, the counsel for the applicant submits that the marriage between the parties to the lis, had taken place on 04.02.2009. However, on account of the matrimonial discord, the parties are residing separate. Two daughters born from this wedlock are presently in the care and custody of the respondent. The applicant was turned out of the matrimonial home on 24.04.2022 and now she is residing at her parental place. She has no source of earning. On 11.05.2022, the applicant had filed a complaint before Senior Superintendent of Police, Patiala, against the respondent, on the basis whereof, FIR bearing No.126 dated 09.09.2023, under Sections 406 and 498-A IPC has been got lodged at Police Station Sirhind, District Fatehgarh Sahib. Translated copy of the said FIR is Annexure P-2. In the given circumstances, it is submitted that it is difficult for the applicant to commute a distance of about 40-50 kilometres, to defend the divorce petition at Patiala, more particularly, while she is having no source of earning.

On the contrary, the counsel for the respondent, while making reference to the reply filed, submits that both the daughters, who are aged about 14 and 13 years, are in the care and custody of the respondent-husband. In fact, it was the applicant of her own, who left the matrimonial home. Rather, it is submitted that the land was purchased by the respondent, in the name of the applicant, the detail whereof is given in paragraph No.5 of the reply. The applicant is signatory to the various sale deeds, as mentioned therein. Even, the commercial shop in the area of 10 marlas, was bought in the name of the applicant. In the given circumstances, it is submitted by the counsel for the respondent that no malafide is being pointed, on the part of the respondent. As such, it is submitted that it cannot be concluded that the



applicant is unable to defend the divorce petition, pending at Patiala, more particularly, while she is also a graduate.

In view of the submissions made aforesaid, it is pertinent to mention that even though, it is held time and again by the Courts, that more weightage should be given to the convenience of the wife in case of transfer applications, relating to the matrimonial dispute, but however, it is not a thumb rule. Various other circumstances, spelt out from the material brought on record, also ought to be taken into consideration. So far as, the contents of paragraph No.5 of the reply are concerned, wherein detail has been given about various sale deeds, which were executed in favour of the applicant, on the basis whereof, land was purchased in her name, by the respondent, the counsel for the applicant submits that the applicant is not aware of the same. The applicant is a graduate and it is not expected of her to be not knowing the contents of the sale deed(s), to which, she is the signatory. In the given circumstances, it is evident that she has concealed about the purchase of land in her favour, relating to which valuation reports have also been placed on record as Annexures R-1 and R-2. Moreover, the growing daughters are already in the custody of the respondent.

Weighing the convenience/inconvenience of both the parties, more particularly, considering the daughters to be residing with the respondent-husband, no case is made out for transfer of the divorce petition.

Hence, the application is hereby dismissed.

19.09.2024
Himanshu

(ARCHANA PURI)
JUDGE

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