



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Sr. No.103

TA-203-2024

Date of Decision: 30.08.2024

MANJEET

....Applicant

Versus

VIKRAM SINGH

.....Respondent

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present:- Mr. Vinay Bajaj, Advocate
for the applicant.

Mr. Abhimanyu Balyan, Advocate
for the respondent.

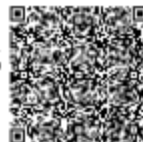
ARCHANA PURI, J. (Oral)

Learned counsel for the respondent submits that he does not intend to file reply, though he contests the application.

Learned counsel for the parties heard.

The applicant-wife has filed the present application for seeking transfer of the petition under Section 9 of the Hindu Marriage Act i.e. HMA/56/2024, titled '*Vikram Singh Vs. Manjeet*', filed at the instance of respondent-husband, pending in Family Court Jagadhri, to the Court of competent jurisdiction at Chandigarh.

At the very outset, learned counsel for the applicant has submitted that one daughter, born from the wedlock of the parties to the lis on 25.05.2014, is residing with the applicant. On account of matrimonial discord, the parties are residing separate. The applicant is not having any permanent source of earning, as a result whereof, it becomes difficult for her to defend the petition under Section 9 of the Hindu Marriage Act, from a



distance of about 100 kilometres from the place of her residence, more particularly, while taking care of the minor child. As such, a prayer has been made for acceptance of the application.

On the contrary, the counsel for the respondent has submitted that even the respondent has to look after his family and his mother is asthmatic. In the given circumstances, it will become difficult for him also to pursue the petition under Section 9 of the Hindu Marriage Act, if the same is transferred from Jagadhri to Chandigarh.

In view of the submissions aforesaid, beneficial reference is made to *N.C.V. Aishwarya vs. A.S.Saravana Karthik Sha, 2022 INSC 1310*, wherein, the Hon'ble Supreme Court made observations, with regard to the various conditions, ought to be taken into consideration, while dealing with the transfer of the legal proceedings, which are reproduced, as herein given:-

“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 socio-economic 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.”

Also, reference is made to *Sumita Singh vs. Kumar Sanjay*



and another, 2001(10) SCC 41, and *Rajani Kishor Pardeshi vs. Kishor Babular Pardeshi, 2005(12) SCC 237*, wherein, it has been observed that convenience of the wife is to be preferred and looked into.

It is well settled that while considering the transfer of the matrimonial dispute/case, the Court is to consider the family condition of the wife, custody of the children, economic condition of the wife, her physical health and the extent of her earning capacity, as well as earning capacity of the husband and most important, convenience of the wife, more particularly, considering the distance between the two places, where the litigation is already pending and is proposed to be now transferred and also about the connectivity of the place from her place of residence and bearing of the litigation charges and travelling expenses.

Adverting to the case in hand, it is pertinent to mention that the daughter born from the wedlock of the parties, is about 10 years old and she is in the custody of the applicant. The daughter is of the age, where she requires the services of the mother. Considering the same, it should be causing a lot of inconvenience for the applicant, to travel to Jagadhri to defend the petition under Section 9 of the Hindu Marriage Act.

Considering the aforesaid fact situation and considering the inconvenience, which shall be caused to the applicant, the present application is hereby accepted and the petition under Section 9 of the Hindu Marriage Act i.e. HMA/56/2024, titled '*Vikram Singh Vs. Manjeet*', filed at the instance of respondent-husband, stands transferred from the Family Court Jagadhri, to the Court of competent jurisdiction at Chandigarh. The requisite record of the aforesaid case be sent by Family Court Jagadhri, to the District and Sessions Judge, Chandigarh.



Learned District and Sessions Judge, Chandigarh, shall assign the said petition to Family Court Chandigarh. Even, the parties are directed to appear before Family Court Chandigarh, within a period of one month from today onwards.

30.08.2024
Himanshu

(ARCHANA PURI)
JUDGE

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