



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

Sr. No.110**TA-266-2024****Date of Decision: 10.12.2024****POONAM****....Applicant****Versus****NAVEEN****.....Respondent****CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI**

Present:- Mr. Pardeep Duhan, Advocate
for the applicant.

Mr. Dhananjay Singh and Mr. Abhijeet Sharma, Advocates
for the respondent.

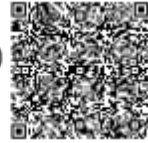
ARCHANA PURI, J. (Oral)

The applicant-wife has filed the present application for seeking transfer of the petition under Section 12 of the Hindu Marriage Act i.e. DMC/142/2023, titled '*Naveen v/s Poonam*', filed by respondent/husband, which is pending in the Family (Camp Court), Hansi, District Hisar to the court of competent jurisdiction at Family (Camp Court), Meham, District Rohtak.

In pursuance of the notice issued, respondent has made appearance through counsel.

Counsel for the parties heard.

At the very outset, it is submitted by the counsel for the applicant that marriage between the parties to the lis had taken place on 02.12.2022 but no child was born from the said wedlock. However, due to matrimonial dispute, they are residing separate. It is further submitted that petition under Section 9 of Hindu Marriage Act and petition under Section



125 Cr.P.C., filed at the instance of the applicant, is also pending in the Family Court, Meham, District Rohtak. In both the aforesaid cases, the respondent had made appearance.

Also, it is submitted by the counsel for the applicant that the respondent had stated about the applicant to be of unsound mind, which is palpably wrong. But even, if his assertion, as such, is taken into consideration, then also the divorce petition is required be transferred from Family Camp Court, Hansi, District Hisar to the Family Camp Court, Meham, District Rohtak.

On the other hand, counsel for the respondent has refuted the claim of the applicant, as he submits that the distance between Hansi and Meham is only 38 kms and therefore, it is not that difficult for the applicant to commute such distance to defend the divorce petition. Further, it is submitted by the counsel for the respondent that otherwise also, the petition for divorce has been filed from her father, as a guardian, as the applicant is of unsound mind. As such, he makes prayer for dismissal of the transfer application.

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.

In this backdrop, advertent to the case in hand, it is evident that two cases are already pending in the Courts at Meham, District Rohtak and the respondent is making appearance in the same and furthermore, the respondent himself asserts about the applicant to be mentally unsound, the application, as such, is hereby accepted and the petition under Section 12 of



the Hindu Marriage Act i.e. DMC/142/2023, titled ‘*Naveen v/s Poonam*’, filed at the instance of respondent-husband, stands transferred from the Family Camp Court, Hansi, District Hisar, to the Family Camp Court, Meham, District Rohtak. The requisite record of the aforesaid divorce petition be transferred by the Family Camp Court, Hansi, District Hisar to District and Sessions Judge, Rohtak.

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

10.12.2024
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(ARCHANA PURI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : Yes/No