



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

158

TA-328-2024

Date of Decision: 14.05.2024

Radha

...Petitioner

Versus

Ramphal

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS SURI

Present:- Mr. S.S. Mor, Advocate, for the petitioner.

VIKAS SURI, J.

1. Prayer in this petition is for transfer of the petition filed by respondent-husband under Section 9 of the Hindu Marriage Act, 1955 (hereinafter referred to as 'the Act') titled as *Ramphal vs. Radha*, bearing case No.DMC/865/2022, pending before the learned Principal District Judge, Family Court, Bhiwani, to a Court of competent jurisdiction at Rohtak.

2. Learned counsel for the petitioner submits:-

- i) That the parties were married on 14.07.2021 at Rohtak, as per Hindu rites and ceremonies.
- ii) That the petitioner and respondent lived together as husband and wife and marriage was consummated.
- iii) That the petitioner-wife was turned out from her matrimonial house by the respondent-husband and his family members on 11.06.2022.
- iv) That the petitioner is totally dependent upon her old age mother.
- v) That the distance between place of residence of the petitioner-wife i.e. village Dhamar, Tehsil and District Rohtak and the place where the proceedings under Section 9 of the Act, are



pending is about 75 kilometers. The petitioner is not in a position to travel alone.

vi) That the proceedings arising out of following:-

(a) Complaint under Section 12 of the Protection of Women from Domestic Violence Act, 2005,

(b) FIR No.19 dated 19.02.2022, under Sections 323, 325, 406, 498-A, 506 and Section 3(2)(v) of SC/ST Act, bearing No.COMA/31/2022,

filed/registered at the behest of petitioner-wife, are pending in the Courts at Rohtak.

3. Upon notice, despite service nobody has put in appearance on behalf of the respondent-husband. It is apparent that the respondent-husband is not serious to contest the present proceedings. Accordingly, this petition is being disposed of in his absence.

4. I have heard learned counsel for the petitioner and perused the record with his assistance.

5. Besides the facts as noticed hereinabove, the legal position in such like cases as the present one, is well established. In this regard, judgment of the Hon'ble Supreme Court rendered in ***N.C.V. Aishwarya vs. A.S. Saravana Karthik Sha***, 2022 SCC Online SC 1199, wherein the Hon'ble Supreme Court has held as under:-

“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 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 socioeconomic 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.”

6. Further reliance can be placed upon the judgments in ***Sumita Singh vs Kumar Sanjay***, AIR 2002 SC 396 and ***Rajani Kishor Pardeshi vs. Kishor Babulal Pardeshi***, (2005) 12 SCC 237, wherein the Hon’ble Supreme Court has observed that “while deciding the transfer application, the Courts are required to give more weightage and consideration to the convenience of the female litigants and transfer of legal proceedings from one Court to another should ordinarily be allowed, taking into consideration their convenience and the Courts should desist from putting female litigants under undue hardships.”

7. Even this Court in number of cases has followed the aforesaid principle of law. Accordingly, 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 the family condition of the wife, the custody of the minor child, economic condition of the wife, her physical health and earning capacity of the husband and most important the 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.

8. After going through the record and in view of the judgments i.e. ***Sumita Singh’s case*** (supra), ***Rajani Kishor Pardeshi’s case*** (supra) and



N.C.V. Aishwarya’s case (supra) passed by the Hon’ble Supreme Court, this Court deems it appropriate to dispose of the present transfer petition with the following directions:-

- a) The petition filed by respondent-husband under Section 9 of Act, titled as *Ramphal vs. Radha*, bearing case No.DMC/865/2022, pending before the learned Principal District Judge, Family Court, Bhiwani, is transferred to the Court of competent jurisdiction at Rohtak.
- b) The learned District Judge, Bhiwani is directed to transfer the complete record pertaining to the aforesaid case to District Judge, Rohtak.
- c) The parties through their counsel are directed to appear before the District Judge, Rohtak, on 30.05.2024.
- d) The District Judge, Rohtak, will assign the said petition to the Court of competent jurisdiction.

9. The concerned Court at Rohtak will make all endeavour to refer the case before the Mediation and Conciliation Centre for exploring the possibility of some amicable settlement between the parties.

10. The petition is disposed of.

11. Pending applications, if any, also stand disposed of.

12. Copy of this order be sent to both the District Judges concerned, for information and necessary compliance.

May 14, 2024
harish

(VIKAS SURI)
JUDGE

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