

231(2) IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

TA-527-2024 (O&M)
Date of decision: 08.08.2024

DALJEET KAUR
V/S
...PETITIONER

INDERPREET SINGH
...RESPONDENT

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Karambeer Singh Randhawa, Advocate for
Mr. S.S. Gill, Advocate for the petitioner.

Mr. Paras Jhamb, Advocate for respondent.

HARPREET SINGH BRAR J. (ORAL)

1. The petitioner is seeking transfer of the petition under Section 9 of Hindu Marriage Act bearing No. DMC/75 of 2022 titles ad *Inderpreet Singh Vs. Daljeet Kaur* dated 19.10.2022 (Registration date 19.10.2022 and CNR No. PBFZF50001722022) pending in the Court of learned Principal Judge, Family Court, Jalalabad District Fazilka to some competent Court of jurisdiction at Sirsa.

2. It has been contended by learned counsel for the petitioner that petitioner-wife has already moved this Court by way of CRM-M-15666-2024 for transfer of petition filed under Section 125 Cr.P.C. seeking maintenance from the petitioner and the said petition has been allowed by this Court vide order of even date. It is, therefore, prayed that the present petition under Section 9 of Hindu Marriage Act be also transferred to some competent Court of jurisdiction at Sirsa as the petitioner is living at her parental home and she has no source of income to maintain herself and it is very difficult for her to attend the Court proceedings at Jalalabad as one side distance between



Jalalabad and Sirsa is around 150 kms and hence, petitioner is facing hardships in going to Jalalabad to attend the Court proceedings.

3. Further, learned counsel for the petitioner relies upon the judgments rendered by the Hon'ble Supreme Court in ***Sumita Singh Vs. Kumar Sanjay and another***, AIR 2002 SC 396 and ***Rajani Kishor Pardeshi Vs. Kishor Babulal Pardeshi***, (2005) 12 SCC 237 to contend that while deciding the transfer applications, more weightage and consideration should be given to the convenience of the female litigants and transfer of legal proceedings from one Court to another Court should ordinarily be allowed in order to avoid undue hardship to the female litigants.

4. Mr. Paras Jhamb, Advocate has put in appearance on behalf of respondents and filed his memo of appearance. Same is taken on record. Learned counsel for respondents vehemently opposes the prayer made by learned counsel for the petitioner.

5. Heard.

6. On 25.04.2024, following order was passed by a Co-ordinate Bench of this Court:

“Learned counsel for the petitioner states that the petitioner-wife has already moved this Court by way of CRM-M-15666-2024 for transfer of the petition filed under Section 125 Cr.P.C. seeking maintenance from the petitioner, which is pending consideration for 07.05.2024. It is further submitted that the grounds for seeking transfer would be common in both the petitions.

Notice of motion, returnable for 07.05.2024.

Process dasti only.

On the oral prayer, liberty is granted to additionally serve the respondent through the counsel representing him before the Family Court.

List along with CRM-M-15666-2024 after soliciting necessary orders from Hon'ble the Acting Chief Justice.”



7. A two Judge Bench of the Hon'ble Supreme Court dealt with power of the Court to transfer proceedings under Sections 24 and 25 of the Civil Procedure Code in ***Kulwinder Kaur @ Kulwinder Gurcharan Singh Vs. Kandi Friends Education Trust***, AIR 2008 SC 1333, wherein it was held that the power to make such transfers is discretionary in nature and hence, it would be unwise to attempt to shackle it with a blanket formula uniformly applicable to all situations. However, it cannot be denied that the power must be used with abundance of care and caution. Further a three Judge Bench of the Hon'ble Supreme Court in ***Gana Saraswathi Vs. H. Raghu Prasad***, (2000) 10 SCC 277 had observed that in the interest of justice, the doctrine of forum nonconveniens can also be extended to matrimonial proceedings. It was stated that Courts usually allow transfer petitions in such cases to ensure that the wife does not suffer on account of not being able to participate in the proceedings.

8. A two Judge Bench of the Hon'ble Supreme Court in ***N.C.V. Aishwarya Vs. A.S. Saravana Karthik Sha***, 2022 SCC OnLine SC 1199 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 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.”

9. Considering the nature of proceedings under Section 9 of Hindu Marriage Act, it would be just and proper to apply the same principles to the instant case and duly consider the convenience of the female litigant.

10. In the present case, distance of Sirsa and Jalalabad is 150 kms approximately and therefore, it would cause immense hardship to the petitioner, much less, petitioner will have to bear the transportation expenses to attend the Court proceedings on each and every date.

11. In view of the law settled by the Hon’ble Supreme Court in **Sumita Singh’s** case (supra), **Rajani Kishor Pardeshi’s** case (supra) and **N.C.V. Aishwarya’s** case (supra), present petition is allowed. Resultantly, the petition under Section 9 of Hindu Marriage Act bearing No. DMC/75 of 2022 titles ad **Inderpreet Singh Vs. Daljeet Kaur** dated 19.10.2022 (Registration date 19.10.2022 and CNR No. PBFZF50001722022) pending in the Court of learned Principal Judge, Family Court, Jalalabad District Fazilka is ordered to be transferred to the jurisdiction of District and Sessions Judge, Sirsa. The District Judge, Jalalabad is directed to transfer the record pertaining to the aforesaid case to the District Court, Sirsa, who will assign the said petition to the competent Court of jurisdiction at Sirsa. The parties are directed to appear before the learned trial Court within a period of one month from today.

August 08, 2024
Ajay Goswami

(HARPREET SINGH BRAR)
JUDGE

(i)	Whether speaking/reasoned	Yes/No
(ii)	Whether reportable	Yes/No