



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

TA-607-2024(O&M)
Date of Decision: October 29, 2024

Seema
...Applicant

Versus

Sukhvinder Singh
...Respondent

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.Bhrigu Dutt Sharma, Advocate
for the applicant.

Mr.Vishal Jassal, Advocate
for the respondent.

ARCHANA PURI, J.

The applicant-wife has filed the present application for seeking transfer of the petition under Section 13 of the Hindu Marriage Act, filed by respondent-husband, which is pending in the Family Court, Ambala and she seeks transfer of the same to the Court of competent jurisdiction at Pathankot.

In pursuance of the notice issued by the Court, the respondent made appearance through counsel, but however, reply was not filed, though it is submitted by learned counsel for the respondent that he contests the application.

Learned counsel for the parties heard.



TA-607-2024

-2-

At the very outset, learned counsel for the applicant submits that marriage between the parties to the lis, had taken place on 03.12.2020 and one daughter was born from the said wedlock on 13.01.2023. However, due to matrimonial discord, the parties are residing separate. The applicant at present, together with one year old daughter is residing at her parental place. The applicant is not having any independent source of earning. She had already filed a petition under Section 125 Cr.P.C., which is pending in Family Court, Pathankot. In the given circumstances, it is submitted that it is difficult for the applicant to commute a distance of about 300 kms. from the place of her residence to defend the divorce petition, filed at the instance of the respondent.

On the contrary, learned counsel for the respondent, though has not filed reply, but he submits that petitioner under Section 13B of the Hindu Marriage Act as filed, but however, at the time of recording of statements of second motion, the applicant was not inclined to seek divorce by mutual consent and the same was dismissed as withdrawn. In the given circumstances, it is submitted that the transfer application, ought not to be allowed.

In view of the rival submissions made 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.

Now, advertng to the case in hand, in view of the aforesaid fact situation and considering the distance of Ambala from Pathankot to be 300 kms, and more particularly, considering minor child to be residing with the applicant, it is just and expedient to accept the application and transfer the divorce petition from Ambala to Pathankot.

Thus, the present transfer application, as such, is hereby accepted and petition bearing No.HMA-28-2024, titled as ‘Sukhvinder Singh vs. Seema’, filed under Section 13 of the Hindu Marriage Act, stands



TA-607-2024

-4-

transferred from the Family Court, Ambala, to the Court of competent jurisdiction at Pathankot. The requisite record of the aforesaid divorce petition shall be transferred by the Family Court, Ambala to District and Sessions Judge, Pathankot.

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

October 29, 2024
Vgulati

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No