

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

Sr. No.114

TA-792-2023

Date of Decision: 26.09.2024

HARPREET KAUR GILL**....Applicant****Versus****HARINDER SINGH SANDHU****.....Respondent****CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI**

Present:- Mr. Pranav Chamoli, Advocate
for the applicant.

Mr. K.S. Brar, Advocate
for the respondent.

ARCHANA PURI, J. (Oral)

In consonance with the order dated 25.09.2024 passed by this Court, copy of the guardianship petition, which was transferred vide order dated 15.05.2024, has been produced by the counsel for the applicant and the same is taken on record.

Reply to the transfer application not filed. However, the counsel for the respondent submits that he does not want to file reply, but 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. DMC/1219/2022, titled '*Harinder Singh Sandhu Vs. Harpreet Kaur Gill*', filed by the respondent-husband, pending in the Family Court, Bathinda and she seeks transfer of the same to the Court of competent jurisdiction at

Abohar, District Fazilka.

It is submitted by the counsel for the applicant that the parties are residing separate, on account of the matrimonial discord. The female child born from the wedlock of the parties to the lis, who is aged about 5 years, is in the care and custody of the applicant and both of them are residing with the widow mother of the applicant. The applicant has no source of income. The applicant has filed the petition under Section 125 Cr.P.C., as well as the complaint under the Protection of Women from Domestic Violence Act and in both the aforesaid cases, the respondent is already making appearance. Also, it is submitted by the counsel that the respondent had filed the petition under Section 25 of the Guardians and Wards Act i.e. GW/91/2022, in the Courts at Bathinda. However, vide the judgment passed by this Court in FAO-5519-2023, the guardianship petition stands transferred to the Family Court, Fazilka and thereupon, the respondent is making appearance in the same.

In the given circumstances, the counsel submits that it is difficult for the applicant to defend the petition under Section 9 of the Hindu Marriage Act, from a distance of about 85 kilometres, from the place of her residence, more particularly, while she is having the custody of the minor child and having no source of earning.

On the other hand, the counsel for the respondent submits that the respondent is suffering from depression. During the course of making submissions, the counsel for the respondent has placed on record the certificate issued by Dr. Satish Thapar, who states about the respondent to be under his treatment for psychiatric illness as on OPD patient.

May it be so. However, from the said certificate, it is not evident about the extent of illness suffered by the respondent. Even, the

TA-792-2023

reply, as such, has not been filed, thereby specifying the extent of illness, and whether it hampers the day-to-day movement of the respondent.

In view of the submissions made aforesaid, more particularly, considering the settled position of law about weightage to be given to the convenience of the wife, in case of transfer applications relating to the matrimonial dispute and also considering the minor child to be in the care and custody of the applicant and she having no source of earning, the application is hereby accepted and the petition under Section 9 of the Hindu Marriage Act i.e. DMC/1219/2022, titled '*Harinder Singh Sandhu Vs. Harpreet Kaur Gill*', filed by the respondent-husband, stands transferred from the Family Court, Bathinda, to Family Court (Camp Court) Abohar, District Fazilka. The requisite record of the aforesaid case be sent by the Family Court, Bathinda, to the District and Sessions Judge, Fazilka.

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

26.09.2024

Himanshu

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : Yes/No