



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Sr. No.102

TA-958-2022

Date of Decision: 13.08.2024

MOHINDER PAL SINGH AND ANOTHER

....Applicants

Versus

HARPREET KAUR

.....Respondent

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present:- Mr. Sourabh Singla, Advocate
for the applicant.

Mr. Rakesh Gupta, Advocate
for the respondent.

ARCHANA PURI, J. (Oral)

The applicant No.1-husband, namely, Mohinder Pal Singh, together with applicant No.2-Paramjit Kaur, who is sister-in-law of applicant No.1, has filed the present application for seeking transfer of the petition under Section 13 of the Hindu Marriage Act, titled '*Harpreet Kaur Vs. Mohinder Pal Singh and another*' (Annexure P-4), filed at the instance of respondent-wife, pending in the Family Court Faridkot, to the Court of competent jurisdiction at Patiala.

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

Learned counsel for the parties heard.

At the very outset, it is submitted by learned counsel for the applicants that twin children, namely, Paramvir Kaur and Jai Veer Singh, were born from the wedlock of the parties to the lis on 21.01.2011 and presently, they are residing with applicant No.1-husband. Also, it is pointed



out that on account of matrimonial discord, the parties are residing separate since the year 2015 and since then, both the children are in the care and custody of applicant No.1-husband.

Furthermore, it is submitted by the counsel for the applicants that the petition under Section 125 Cr.P.C., for seeking maintenance on behalf of children, was filed by applicant No.1, in Family Court Patiala and therein, order of interim maintenance was passed by the Court on 05.09.2022. Vide the said order, the respondent-wife, who is a government Teacher, was ordered to pay a sum of Rs.7,500/- per month to both the children. Also, it is submitted by the counsel for the applicants that the said amount is being paid by the respondent-wife. It is also submitted by the counsel for the applicants that the respondent had filed the petition for seeking divorce at Faridkot, while she was still posted as teacher at Patiala. This was all done with an intention to harass the applicant No.1.

Considering both the children to be students of 'Our Lady of Fatima Convent School, Patiala', on behalf of the applicants, it is submitted that it is very difficult for applicant No.1 to defend the divorce petition, at a distance of about 194 kilometres, from the place of his residence. As such, a prayer has been made for transfer of the divorce petition, pending at Family Court Faridkot, to the Court of competent jurisdiction at Patiala.

However, learned counsel for the respondent/wife has resisted the claim for transfer of the divorce petition. While making reference to the reply filed, learned counsel for the respondent submits that though, the respondent is a computer teacher, but she is now posted in Faridkot. Though, the children are in the custody of applicant No.1-husband, but however, she is continuously paying an amount of Rs. 15,000/-,



on account of interim maintenance of the children, as ordered by learned Family Court. Also, it is submitted by the counsel for the respondent that the petition under Guardians and Wards Act, filed at the instance of the respondent, is pending in the Courts at Patiala. It is submitted that the applicant had filed the petition under Section 13 of the Hindu Marriage Act, in the Courts at Faridkot, while expecting transfer there, as she had already filed an application before her department, for seeking transfer to look after her aged parents, who are residents of Faridkot. Furthermore, it is submitted by the counsel for the respondent that applicant No.1 is an Advocate by profession.

In view of the aforesaid submissions, it is pertinent to mention that even though, it is held repeatedly by the Courts about the convenience of the wife to be seen, but solely, the convenience of the wife is not to be seen. Other circumstances, being spelt out in the application, as well as the reply, ought to be taken into consideration.

Undisputedly, the respondent-wife, is a government teacher and as such, has a secured job. She is also complying with the order passed by learned Family Court on 05.09.2022, with regard to payment of interim maintenance to the extent of Rs.7,500/- for each child, per month. Copy of the said order is Annexure R-1. Both the children, born from the wedlock are still school-going and they are studying in 'Our Lady of Fatima Convent School, Patiala'. Keeping in view the same, the mobility on the part of applicant No.1 is bound to cause inconvenience to the young children.

Considering the aforesaid fact situation, as well as taking into consideration the pendency of the petition under the Guardians and Wards Act, for seeking custody of the children, filed at the instance of the



respondent, in the Courts at Patiala, without prejudice to the rights of the parties to be adjudicated on merits, the present application is hereby accepted and the petition under Section 13 of the Hindu Marriage Act, titled ‘*Harpreet Kaur Vs. Mohinder Pal Singh and another*’ (Annexure P-4), filed at the instance of respondent-wife, stands transferred from the Family Court Faridkot, to the Court of competent jurisdiction at Patiala. The requisite record of the aforesaid case be sent by the Family Court Faridkot, to District and Sessions Judge, Patiala.

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

13.08.2024
Himanshu

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : Yes/No