

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

TA-915-2023(O&M)

Rajneesh Bala  
...Applicant

Versus

Sant Ram  
...Respondent

TA-1644-2023(O&M)

Sant Ram  
...Applicant

Versus

Rajneesh Bala  
...Respondent

Date of Decision: September 02, 2024

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.G.C.Shahpuri, Advocate  
for the applicant (in TA-915-2023) and  
for the respondent (in TA-1644-2023)  
along with applicant-in-person.

Mr.Jarnail Singh Saneta, Advocate  
for the applicant (in TA-1644-2023) and  
for the respondent(in TA-915-2023)  
along with applicant-in-person.

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ARCHANA PURI, J.

These are two transfer applications filed by the wife as well as  
by the husband. The applicant-wife has filed application i.e. TA-915-2023  
for seeking transfer of the petition under Section 13(1) (B) of the Hindu

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Marriage Act, filed at the instance of respondent-husband, pending in the Family Court, Panipat, to the Court of competent jurisdiction at Yamunanagar, whereas, the applicant-husband has filed application i.e. TA-1644-2023 for seeking transfer of the petition under Section 9 of the Hindu Marriage Act, filed at the instance of respondent-wife, pending in the Family Court, Yamunanagar, to the Court of competent jurisdiction at Panipat.

Learned counsel for the parties heard.

At the very outset, learned counsel for the applicant-wife has submitted that the marriage of the parties to the lis was solemnized on 25.02.2012. The applicant-wife was preparing for judicial services and during that period, she had interaction with the respondent-husband, which culminated into their marriage. From the said wedlock, one daughter was born, on 29.05.2015, who is presently in the custody of the respondent-husband. However, it is submitted that on account of matrimonial discord, the parties are residing separate.

The applicant-wife is an enrolled Advocate at Jagadhri and since, she is still preparing for judicial examination, as such, it becomes difficult for her to defend the litigation, initiated at the instance of the respondent-husband, from the distance of about 100 kms. from the place of her residence. Also, it is submitted that the applicant-wife had always remained ready to rehabilitate herself in the matrimonial home. As such, a prayer has been made for acceptance of the transfer application filed at her instance.

On the contrary, learned counsel for the respondent-husband,

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while making reference to the reply filed, has assiduously submitted that the parties are residing separate since 2018. The minor daughter, who is aged 8 years 5 months, at present, is in the care and custody of the respondent-husband. In fact, she was about 2 years 10 months old, when the applicant-wife had left the matrimonial home and thereafter, she never bothered to enquire about the well-being of the minor daughter and also, she was never interested to return back to the matrimonial home. In fact, it is submitted that the applicant-wife is the practising lawyer at Jagadhri, District Yamunanagar and therefore, the petition, ought not to be transferred to Yamanunagar.

Also, it is submitted by learned counsel for the respondent-husband that respondent is Additional District Attorney, posted at Karnal at present and therefore, if the case is transferred to Yamunanagar, it would be difficult for him to take care of the minor child and perform his duties. Moreover, it is submitted that the applicant-wife shall be exercising her influence, being member of the local bar at Jagadhri Courts, District Yamunanagar.

In view of the rival submissions, 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*

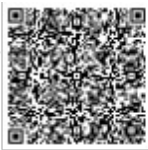


*take into consideration the economic soundness of both the parties, the social strata of the spouses and their behavioural pattern, their standard of life prior to the marriage and subsequent thereto and the circumstances of both the parties in eking out their livelihood and under whose protective umbrella 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.

Adverting to the case in hand, it is pertinent to mention that the parties are residing separate since the year 2018 and the minor child, born from the wedlock of the parties, is in the care and custody of the husband. Though, it is settled position of law, about the convenience of wife to be taken into consideration, while considering the transfer application, in the matrimonial dispute, but however, it is not a thumb rule. Various other circumstances, spelt out, also ought to be taken into consideration, while deciding the transfer application. Since the applicant-wife is member of the local bar, where she is seeking transfer of the case, the respondent-husband has an apprehension of exercise of influence, in the disposal of the litigation, if transferred to Jagadhri.



Though, it may not be so, in every case, but however, it is always necessary that the chances of exercise of influence, should be ruled out.

In the given circumstances, taking into consideration inconvenience, not only of the wife, but also of the husband, more particularly, while considering the fact of minor daughter, being in the care and custody of the husband and also considering the fact that both the cases should be taken up together by one Court, in the fitness of the circumstances, both the transfer applications are hereby accepted and petition bearing No.DMC-160-2023, titled as ‘Sant Ram vs. Rajneesh Bala’, filed under Section 13(1)(B) of the Hindu Marriage Act, 1955’, pending before Family Court, Panipat and petition under Section 9 of the Hindu Marriage Act, titled as ‘Rajneesh Bala vs. Sant Ram’, pending before Family Court, Yamunanagar, stands transferred from the respective Family Courts, to the Court of competent jurisdiction at Kurukshetra. The requisite records of the aforesaid petitions shall be transferred by the respective Family Courts, to District and Sessions Judge, Kurukshetra.

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

September 02, 2024  
Vgulati

(ARCHANA PURI)  
JUDGE

Whether speaking/reasoned  
Whether reportable

Yes  
Yes/No