

TA-916-2024;
TA-216-2023 AND
TA-1457-2023



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH
227+231

TA-916-2024
Decided on :13.09.2024

Seerat Kaur (Through her GPA)		... Petitioner
	Versus	
Harpreet Singh		... Respondent
	AND	
		TA-216-2023
Seerat Kaur (Through her GPA)		... Petitioner
	Versus	
Harpreet Singh		... Respondent
	AND	
		TA-1457-2023
Seerat Kaur (Through her GPA)		... Petitioner
	Versus	
Harpreet Singh		... Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

PRESENT: Mr. T. V. S. Lehal, Advocate and
Mr. Virat Amarnath, Advocate
for the petitioner.

Mr. Mandeep Singh Sachdev, Advocate
for the respondent.

ANIL KSHETARPAL, J.(ORAL)

1. With the consent of learned counsel for the parties, these

three connected transfer applications shall stand disposed of by a common

order.



2. The basic dispute between the petitioner and her husband is arising out of marital discord between them. The husband is stated to have obtained an ex parte decree of divorce when the petitioner was in USA alongwith her two minor children. The proceedings under Order 9 Rule 13 to set aside ex parte divorce decree is pending between the Family Court at Jalandhar. It has been stated that the following proceedings are already pending at Chandigarh:-

(i) complaint under Section 12 of the Protection of Women from Domestic Violence Act, 2005

(ii) petition under Section 125 Cr.P.C.

(iii) FIR No. 18 dated 29.07.2012 registered under Sections 406, 498-A, 506 IPC (Section 417 IPC added later on) at Police Station NRI, SAS Nagar, Mohali which is a satellite town of Chandigarh

3. The distance between Chandigarh and Jalandhar is 150 Kms. one side. The petitioner claims that at present, her mother, who is a senior citizen, is looking after the litigation. The petitioner's parental house is also at Chandigarh. Two separate petitions filed by the respondent under Section 25 of the Guardians and Wards Act, 1860 with respect to the custody of children are also pending at Jalandhar. TA-1457-2023 and TA-916-2024 have been filed to seek their transfer to competent Court at Chandigarh. The respondent has filed reply by contesting the petition. It has been stated that the petitioner is settled in USA and the proceedings under Order 9 Rule 13 can only be decided by the same Court. Moreover,



as per Section 19 of the Hindu Marriage Act, the husband is entitled to maintain a petition where he resides, particularly, when his wife is abroad.

4. This Court has considered the submissions as is evident.

5. Multiple proceedings are pending between the parties as many as three proceedings are pending in and around Chandigarh whereas another 3 are pending at Jalandhar. The proceedings for setting aside ex parte decree is not required to be decided by the same Presiding Judge because it does amount to review. The Successor Court is entitled to decide the application under Order 9 Rule 13 CPC. At present, the proceedings are being looked after by the wife's mother who is aged about 65 years. The petitioner owns a house in Chadigarh. As many as 3 case are already pending in and around Chandigarh. There are serious allegations of manipulation against the respondent on the ground that the ex parte decree has been obtained by misleading the Court.

6. In view of the abovesaid facts, all 3 transfer applications are allowed. It is directed that the proceedings in petition under Section 25 of Guardians and Wards Act GW/201/2023 bearing No.4401/2023 titled as "Harpreet Singh Vs. Seerat Kaur", petition under Section 25 of Guardians and Wards Act GW/202/2023 bearing No.4402/2023 titled as "Harpreet Singh Vs. Seerat Kaur" and proceedings under Order 9 Rule 13 CPC CIS case No.DMC-1002 of 2020 titled as "Harpreet Singh Vs. Seerat Kaur" pending in the competent Courts at Jalandhar be transferred to the competent Courts at Chandigarh. The transferor Courts

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are directed to remit the respective files of the cases to the transferee Courts forthwith. The parties through their counsel are directed to appear before the competent Courts, Chandigarh, on 16.10.2024, who would either try the case or assign the same to the Court of competent jurisdiction in the District.

(ANIL KSHETARPAL)
JUDGE

13.09.2024
Mehak

<i>Whether reasoned/speaking?</i>	<i>Yes/No</i>
<i>Whether reportable?</i>	<i>Yes/No</i>