



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

TA-1143-2021(O&M)

Date of Decision: August 06, 2024

Harpreet Kaur

...Applicant

Versus

Bhupinder Singh

...Respondent

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.Rishabh Singla, Advocate
for the applicant.

Mr.Kanwaljeet Singh, 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 at the instance of respondent-husband, pending in the Family Court, Ludhiana, to the Court of competent jurisdiction at Jalandhar.

In pursuance of the notice issued by the Court, the respondent 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 applicant that male child born from the wedlock of the parties to the lis, is presently in the custody of the respondent. The applicant has already filed



TA-1143-2021

-2-

petition under Section 9 of the Hindu Marriage Act, which is pending at Family Court, Jalandhar. In the given circumstances, it is submitted that it is difficult for her to defend the divorce petition filed, at the instance of respondent, which is pending at Ludhiana. As such, a prayer has been made for allowing of the transfer application.

However, learned counsel for the respondent has refuted the claim of the applicant. Rather, while making reference to the reply filed, learned counsel has submitted that the child was premature at the time of his birth on 14.09.2005. He is being taken care of by the respondent only. Also, further it is submitted the applicant is ill since marriage. After four years of marriage, the respondent came to know that left kidney of the applicant was not functional. He had spent about Rs.1.5 lakh, on her treatment. Moreover, father of the respondent is also bed-ridden. He had suffered paralytic attack. In these circumstances, a prayer has been made for dismissal of the transfer application.

In view of the submissions aforesaid, at the very outset, 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.

In view of the submissions made, it is pertinent to mention that even though, the respondent had submitted that the applicant's left kidney had become non-functional, but however, no medical record, relating to the same has been produced, despite opportunity given. Learned counsel for the applicant, during the course of making submissions, has produced the copy of ultrasound report, which reveals that the applicant is having small left kidney. It does not state about the non-functioning of the left kidney.

That being so, no reason, as such, is coming forth, at the instance of the respondent, to resist the transfer application. Even though, the child is stated to be living with the respondent, but he is a grown up boy.

Considering the same, the convenience of the applicant has an edge over the



limitation, as expressed by the respondent in the reply.

Considering the aforesaid circumstances, as spelt out from the application, the transfer application, as such, is hereby accepted and petition bearing No.HMA-767-2021, titled as ‘Bhupinder Singh vs. Harpreet Kaur’, filed under Section 13 of the Hindu Marriage Act, stands transferred from the Family Court, Ludhiana to the Court of competent jurisdiction at Jalandhar. The requisite record of the aforesaid divorce petition shall be transferred by the Family Court, Ludhiana to District and Sessions Judge, Jalandhar.

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

August 06, 2024
Vgulati

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No