

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

212

TA-1224-2023 (O&M)
Date of decision: 30.01.2024

Geeta

...Petitioner

Versus

Vicky

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS SURI

Present: Mr. Nipun Bhardwaj, Advocate for the petitioner.

VIKAS SURI, J.

1. Prayer in this petition filed by petitioner-wife is for transfer of the petition filed by respondent-husband under Section 9 of the Hindu Marriage Act, 1955 (for short 'the Act') titled as *Vicky vs. Geta*, pending in the Court of learned Principal Judge, Family Court, Zira, District Ferozepur to a Court of competent jurisdiction at Bathinda.

2. Learned counsel for the petitioner submits:-

- i) That the parties were married in September 2018.
- ii) That a male child was born out of this wedlock, who is around 04 years old and is living with the respondent.
- iii) That the petitioner-wife is living separately from the respondent-husband since July 2021 and is living with her parents at their mercy at Bathinda.
- iv) That the petitioner is having no steady source of income and is totally dependent upon her parents and the respondent-husband, who is gainfully employed. The petitioner is

working as a maid in houses in the locality for earning her livelihood.

- v) That the respondent-husband had filed one civil suit bearing No.633 of 2021 in the Court of Civil Judge (Jr. Divn.) Zira, District Ferozepur and the petitioner had approached this Court by way of TA-840-2022 for transfer of the same, which transfer petition was allowed vide order dated 05.08.2022 (Annexure P-1).
- vi) That the distance between place of residence of the petitioner-wife i.e. Bathinda and the place of proceedings under Section 9 of the Act, filed by the respondent-husband, pending before the Principal Judge, Family Court, Zira, District Ferozepur, is about 104 kilometers on one side.
- vii) That the parents of the petitioner-wife are aged and there is no other male family member who can accompany her on each and every date.
- viii) That proceedings under Section 125 Cr.P.C. are also pending before learned Principal Judge, Family Court at Bathinda.

3. Upon notice, despite service nobody has put in appearance on behalf of the respondent-husband. It is apparent that the respondent-husband is not serious to contest the present proceedings. It has also been brought to the notice of the Court that the order dated 05.08.2022 (Annexure P-1) passed in TA-840-2022 transferring the civil suit No.633-2021 filed by the respondent-husband from Zira, District Ferozepur to the Court of competent jurisdiction at Bathinda was not challenged further and has been accepted as such. The said order has since attained finality.

4. I have heard learned counsel for the petitioner.

5. Besides the facts as noticed hereinabove, the legal position in such like cases as the present one, is well established. In this regard, judgment of the Hon'ble Supreme Court rendered in ***N.C.V. Aishwarya vs. A.S. Saravana Karthik Sha***, 2022 SCC Online SC 1199, wherein the Hon'ble Supreme Court has held as under:-

“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 socioeconomic 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.”

6. Further reliance can be placed upon the judgments in ***Sumita Singh vs Kumar Sanjay***, AIR 2002 SC 396 and ***Rajani Kishor Pardeshi vs. Kishor Babulal Pardeshi***, (2005) 12 SCC 237, wherein the Hon'ble Supreme Court has observed that “while deciding the transfer application, the Courts are required to give more weightage and consideration to the convenience of the female litigants and transfer of legal proceedings from one Court to another should ordinarily be

allowed, taking into consideration their convenience and the Courts should desist from putting female litigants under undue hardships.”

7. Even this Court in number of cases has followed the aforesaid principle of law. Accordingly, it is well settled that while considering the transfer of a matrimonial dispute/case, at the instance of the wife, the Court is to consider the family condition of the wife, the custody of the minor child, economic condition of the wife, her physical health and earning capacity of the husband and most important the convenience of the wife i.e. she cannot travel alone without assistance of a male member of her family, connectivity of the place to and fro from her place of residence as well as bearing of the litigation charges and travelling expenses.

8. After going through the record and in view of the judgments i.e. ***Sumita Singh's case*** (supra), ***Rajani Kishor Pardeshi's case*** (supra) and ***N.C.V. Aishwarya's case*** (supra) passed by the Hon'ble Supreme Court, this Court deems it appropriate to allow the present petition, subject to the following conditions:-

- a) The petition filed by respondent husband under Section 9 of Act, titled as *Vicky vs. Geeta*, pending in the Court of Principal Judge, Family Court, Zira, District Ferozepur is transferred to a Court of competent jurisdiction at Bathinda.
- b) The learned District Judge, Ferozepur is directed to transfer complete record pertaining to the aforesaid case to District Judge, Bathinda.
- c) The parties are directed to appear before the District & Sessions Judge, Barnala on 04.04.2024.

d) The District Judge, Bathinda will assign the said petition to the Court of competent jurisdiction.

9. The concerned Court at Bathinda will make all endeavour to refer the case before the Mediation and Conciliation Centre for exploring the possibility of some amicable settlement between the parties.

10. The Court concerned, where the litigation is pending between the parties, will accommodate them with one date in one calendar month.

11. I am supported by the decisions rendered by a Co-ordinate Bench of this Court in **TA No. 1315/2022, Rohini Arora v Nitin Talwar**; **TA No. 1322 of 2022, Jaswinder Kaur v Gurvinderjeet Singh**; **TA No. 1323 of 2022, Usha Rani v Karmajit Singh**; and **TA-610-2023, Hemal v Manuvrat**.

12. Accordingly, the present petition is disposed of directing the parties to appear before the District Judge, Bathinda on 04.04.2024. Copies of order be sent to both the Courts for information and necessary compliance.

13. Pending applications, if any, stand disposed of.

January 30, 2023
sumit.k

(VIKAS SURJ)
JUDGE

Whether speaking/reasoned : Yes / No
Whether Reportable : Yes / No