



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Sr. No.409

Date of Decision: 06.08.2024

1. TA-1431-2023 (O&M)

SWATI
....Applicant

Versus

RAVINDER KUMAR
.....Respondent

2. TA-91-2024

SWATI
....Applicant

Versus

RAVINDER KUMAR
.....Respondent

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present:- Mr. Chirag Suri, Advocate
for the applicant (in both the applications).
Ms. Shivani Jaglan, Advocate, for
Ms. Aashna Gill, Advocate
for the respondent (in both the applications).

ARCHANA PURI, J. (Oral)

TA-1431-2023 has been filed by the applicant-wife for seeking transfer of the petition under Section 25 of the Guardians and Wards Act, 1890, i.e. GW/7/2023, titled '*Ravinder Kumar Vs. Swati*' filed at the instance of respondent-husband, which is pending in Family Court Patiala, to the Court of competent jurisdiction at Chandigarh.

TA-91-2024 has been filed by the applicant-wife for seeking transfer of the divorce petition i.e. DMC/115/2023, titled '*Ravinder Kumar Vs. Swati*', filed at the instance of the respondent-husband, from Family

Court Patiala, to the Court of competent jurisdiction at Chandigarh.



In pursuance of the notice issued by this Court, respondent has made appearance through counsel and filed replies in both the applications.

Learned counsel for the parties heard.

At the very outset, it is submitted by learned counsel for the applicant that the son, namely, Rudra Verma, born from the wedlock of the parties to the lis, is presently in the care and custody of the applicant. The applicant is having no source of earning. The respondent is working as Operation Head (Managerial Field), with Manipal Hospital, Bhupindra Road, Patiala and is drawing salary of Rs.1,50,000/-. Rudra Verma is a student of 2nd Class in Manav Mangal High School, Sector 21, Chandigarh. Copies of the school fee receipts have also been annexed with the application. In the given circumstances, it is submitted that the respondent ought to have filed the petition for Guardianship of the minor child at Chandigarh, where he is residing.

Furthermore, it is also submitted that even though, the divorce petition has also been filed at Patiala, but however, considering the circumstances, as spelt out aforesaid, more particularly, when the applicant is taking care of the child, it is difficult for her to defend the divorce petition, filed at Patiala, which is at a distance of 70 kilometres from the place of her residence.

As such, a prayer has been made for transfer of the aforesaid cases, pending at Family Court Patiala, to the Court of competent jurisdiction at Chandigarh.

On the contrary, learned counsel for the respondent submits that the applicant is keeping the child away from the company of the respondent.

In fact, learned counsel has insisted about the conduct of the applicant to be



having adverse effect on the child, as she use to consume liquor in the presence of the son. Rather, it is also submitted that the applicant is running a boutique and as such, has a source of earning.

In view of the submissions made aforesaid, 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.

It is well settled that while considering the transfer of the matrimonial dispute/case, the Court is to consider the family condition of the



wife, custody of the children, economic condition of the wife, her physical health and the extent of her earning capacity, as well as earning capacity of the husband and most important, convenience of the wife, more particularly, considering the distance between the two places, where the litigation is already pending and is proposed to be now transferred and also about the connectivity of the place from her place of residence and bearing of the litigation charges and travelling expenses.

In the light of the submissions made aforesaid and the circumstances, as spelt out, the applications, as such, are hereby accepted and the petition under Section 25 of the Guardians and Wards Act, 1890, i.e. GW/7/2023, titled '*Ravinder Kumar Vs. Swati*' and the divorce petition i.e. DMC/115/2023, titled '*Ravinder Kumar Vs. Swati*', filed at the instance of respondent-husband, stands transferred from the Family Court Patiala, to the Court of competent jurisdiction at Chandigarh. The requisite record of the aforesaid divorce petition shall be transferred by the Family Court Patiala, to District and Sessions Judge, Chandigarh.

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

06.08.2024
Himanshu

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : Yes/No