



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

Sr. No.113

TA-100-2024

Date of Decision: 20.03.2025

RENU BALA

....Applicant

Versus

SURENDER KUMAR BHOLA

.....Respondent

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present:- Mr. Nippun Sharma, Advocate
for the applicant.

Mr. Samir Rathour, Advocate
for the respondent.

ARCHANA PURI, J. (Oral)

The applicant-wife has filed the present application for seeking transfer of the petition under Section 13 of the Hindu Marriage Act i.e. HMA/1651/2023, titled '*Surender Kumar Bhola Vs. Renu Bala*', filed by the respondent-husband, pending in the Family Court, Faridabad and she seeks transfer of the same to the Court of competent jurisdiction at Jalandhar.

Upon notice, the respondent made appearance through counsel and filed reply.

The counsel for the parties heard.

At the very outset, it is submitted by the counsel for the applicant that the marriage between the parties to the lis, had taken place on 15.08.2014. One female child was born from the said wedlock on 10.05.2014, who is presently in the care and custody of the applicant. On



account of the matrimonial discord, the parties are residing separate. The applicant is residing at her parental place. She is having no source of earning and is totally dependent upon her parental family. She had got lodged an FIR bearing No. 77 dated 07.09.2022, under Sections 406 and 498-A IPC, relating to which the trial is pending in the Courts at Jalandhar. Even, she has filed the petition under the Protection of Women from Domestic Violence Act, which is also pending in the Courts at Jalandhar and in the said petition, the respondent has been proceeded against *ex parte*. In the given circumstances, it is submitted that convenience of the wife ought to be taken into consideration and taking into consideration the same, a prayer has been made for acceptance of the transfer application.

On the contrary, the counsel for the respondent, while making reference to the reply filed in the form of affidavit of the respondent, has assiduously submitted, that the respondent is having various health issues, the detail whereof is given in the affidavit and also, the medical record is annexed therewith. On account of the respondent suffering from '*spinal chord injury*', due to accident, he is undergoing treatment from the Department of Neurosurgery, A.I.I.M.S., New Delhi. He is not in a position to travel, more particularly, when he has been advised complete bed rest and also been advised to wear the belt, as well as cervical collar regularly. In the given circumstances, it is submitted that it shall be too harsh for the respondent, to pursue the divorce petition, if so transferred.

No doubt, the Courts generally give preference to the convenience of the wife, in case of transfer applications relating to the matrimonial dispute but however, it is not a thumb rule. Various other circumstances, spelt out from the material brought on record, also ought to



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be taken into consideration. Each case has to be examined in the backdrop of its own peculiar facts. Further, the paramount consideration must be that there is no denial of justice, on account of inability to pursue the litigation, at a different place. However, wide discretion has been given to the Courts to consider the various situations coming forth, while accepting/denying the transfer applications.

The applicant seeks transfer of the divorce petition, primarily on account of taking care of the daughter born from the wedlock. The date of birth of the female child is 10.05.2014 and as such, she is about 11 years old. The applicant is staying along with her parents at Jalandhar. In the given circumstances, in the minimum, there is someone to take care of the daughter, even if the applicant is not in a position to take care of her, if she is at all required to proceed to Faridabad to defend the divorce petition. No doubt, going away from the place of residence is inconvenient, but however, the circumstances faced by the other side, also have to be taken into consideration. The respondent is suffering from '*spinal chord injury*' and he is undergoing treatment from the Department of Neurosurgery. Various documents have been annexed along with the affidavit, which state about the condition of the respondent. There is weakness in the right side of the body of respondent. He had been advised to use L.S. Belt and cervical collar regularly. He had also been advised complete bed rest and to avoid mental and physical exertion. Considering this state of health of the respondent, definitely, he will not be in a position to travel all the way to Jalandhar, if the divorce petition is transferred.

Taking into consideration, some inconvenience, which is bound to be faced by the applicant, it is pertinent to mention that she always has an



option to file an application for making appearance before the Family Court through video conferencing, as and when her personal appearance is required. If any such application is filed, the Court concerned shall consider the same and pass an appropriate order. Thus, balancing the convenience/inconvenience of both the sides and more particularly, considering the ill health of the respondent, no case is made out for transfer of the divorce petition.

Hence, the transfer application is hereby dismissed.

20.03.2025

Himanshu

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : Yes/No