



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

TA-97-2024(O&M)

Date of Decision: February 21, 2025

Smt.Sudesh Singh

...Applicant

Versus

Neeraj Kumar

...Respondent

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.Sunil Goswami, Advocate
for the applicant.

Mr.Sandeep Yadav, Advocate for
Mr.R.K.Girdhwal, Advocate
for the respondent.

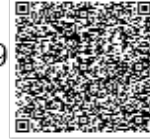
ARCHANA PURI, J.

The applicant-wife has filed the present application for seeking transfer of petition under Section 9 of the Hindu Marriage Act, filed at the instance of the respondent-husband, pending in Family Court, Jhajjar and she seeks transfer of the same to the Court of competent jurisdiction at Jind.

In pursuance of the notice issued, respondent has made appearance through counsel.

Learned counsel for the parties heard.

It is submitted by learned counsel for the applicant that earlier



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the applicant was married to one Raju @ Rajbir Singh, in the year 2001, but unfortunately, he died in a motor vehicular accident in the year 2009. Two children were from the said wedlock, who are in the care and custody of the applicant. However, second marriage was performed by the applicant with the respondent on 10.05.2011 and from the said wedlock, one daughter was born, who is presently in the care and custody of the respondent.

Also, it is submitted that the applicant has no source of earning and thus, under constrained circumstances, she had filed petition under Section 125 Cr.P.C. in the Courts at Jind and the same has since been decided vide order dated 08.08.2022, whereby, maintenance was fixed. However, respondent did not pay the maintenance, as a result whereof, the applicant has filed execution petition, which is pending in the Courts at Jind. Further, it is brought to the notice of this Court that now the respondent has filed petition to seek setting aside of the ex-parte maintenance order, which is also pending in the Courts at Jind.

In the given circumstances, it is submitted that since the applicant has no source of earning, it is difficult for her to defend the petition under Section 9 of the Hindu Marriage Act, while commuting a distance of 112 kms.

On the contrary, learned counsel for the respondent, though, has not filed reply, but he resisted the claim for the transfer of the case and submits that minor daughter born from the wedlock of the parties to the lis, is in the care and custody of the respondent. Also, it is submitted that it was only on account of her own bad conduct that the applicant did not stay with



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the respondent. As such, a prayer has been made for dismissal of the transfer application.

In view of the aforesaid submissions, while keeping in mind the position of law, about preference to be given to the convenience of the wife, in case of transfer application, relating to matrimonial dispute, various other circumstances, spelt out from the material coming forth, ought to be taken into consideration. Even though, learned counsel for the respondent has submitted that respondent is taking care of the minor daughter, born from the wedlock of the parties, but simultaneously, it ought to be taken into consideration that the applicant is also taking care of the two other children, born from her previous wedlock, who are in her care and custody.

Considering the same and also taking into consideration the distance between Jhajjar and Jind and also taking into consideration the fact of other litigation, already pending at Jind, wherein, the respondent has also filed an application for setting aside of the ex-parte maintenance order, the present transfer application, as such, is hereby accepted and petition bearing No.HMA-346-2021, titled as 'Neeraj Kumar vs. Sudesh', filed under Section 9 of the Hindu Marriage Act, stands transferred from the Family Court, Jhajjar, to the Court of competent jurisdiction at Jind. The requisite record of the aforesaid petition shall be transferred by the Family Court, Jhajjar, to District and Sessions Judge, Jind.

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



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onwards.

February 21, 2025
Vgulati

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No