



TA-167-2024 (O&M)

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

Sr. No.201

**TA-167-2024 (O&M)
Date of Decision: 25.02.2025**

NAMNA

....Applicant

Versus

PARVINDER SINGH

.....Respondent

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present:- Mr.M.S.Kundu, Advocate
for the applicant.

Mr. Sandeep Thakan, Advocate
for the respondent.

ARCHANA PURI, J. (Oral)

The applicant/wife has filed the present application for seeking transfer of the petition under Section 9 of the Hindu Marriage Act i.e. DMC/241/2022 titled “Parvinder Singh v/s Namna”, filed by the respondent/husband, which is pending in the Family Court, Bhiwani and she seeks transfer of the same to the court of competent jurisdiction at Karnal.

In pursuance of notice issued, respondent made appearance through counsel and filed reply.

Counsel for the parties heard.

It is submitted by the counsel for the applicant that the marriage between the parties was solemnized on 04.05.2009 and one daughter born from the said wedlock, who is about 12 years old at present, is in the care



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and custody of the applicant. It is also submitted that the applicant is working as an Assistant Sub Inspector in Haryana Police and is presently posted in Crime Branch, Madhuban, District Karnal. In these circumstances, it is submitted that it is difficult for the applicant to pursue the litigation, initiated at the instance of the respondent at Bhiwani, which is at a distance of about 150 kms, from her work place. In the given circumstances, a prayer has been made for acceptance of the transfer application.

On the contrary, counsel for the respondent while making reference to the reply, submits that the applicant has not come to the court with clean hands. In fact, she has not disclosed the clear factual position, relating to the ailment suffered by the respondent. It is further submitted that on 08.11.2018, the respondent had suffered a Brain Stroke, on account of which, he remained admitted in the emergency of Apex Plus Super Speciality Hospital and his body got paralyzed, as a result whereof, he has suffered permanent disability, which is to the extent of 62%. Copy of the Disability Certificate is annexed as Annexure R-2. In view of this permanent disability, it is submitted that it shall be difficult for the respondent to pursue the petition under Section 9 of Hindu Marriage Act, if transferred, from Bhiwani to Karnal. Rather, it is submitted that the applicant is posted as Assistant Sub Inspector in Haryana Police, therefore, she is in a better position to pursue the said petition, while staying at Karnal.

In view of the aforesaid submissions, it is pertinent to mention that though, it is time and again, held by the courts about the convenience of the wife to be taken into consideration, in case of transfer applications, relating to the matrimonial dispute, but however, it is not a thumb rule.



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Various other circumstances, which are spelt out from the material coming forth, ought to be taken into consideration.

Undisputedly, in the present case, the wife is working as Assistant Sub Inspector in Haryana Police, presently posted at Crime Branch, Madhuban, District Karnal and the child born from the wedlock of the parties to the lis, is stated to be 12 years old. Meaning thereby, the child is not of such age, which requires the constant care of the mother. On query, it has also been stated that the child is looked after by her maternal grandmother, when the applicant is away for her duties. Simultaneously, it ought to be taken into consideration that the respondent had suffered a brain stroke, as evident from the Disability Certificate (Annexure R-3), which is to the extent of 62%, and is permanent in nature.

Even though, during the course of the arguments, it has been submitted that the condition of the respondent has improved, but however, as per Annexure R-1, which is an application filed by the applicant, before the Superintendent of Police, Rohtak, wherein she has stated about the respondent to be having bad state of health. Even, unique disability ID has also been issued to the respondent, on account of disability suffered by him.

Thus, taking into consideration the convenience/inconvenience of both the parties, it is quite obvious that the applicant is in a better position to defend the litigation pending at Bhiwani. Moreover, it is the civil dispute, which does not call for the appearance of the parties on each and every date. However, looking at the exigencies of the duties, relating to the job of the applicant, she always has the option to make appearance through video conferencing, before the court concerned.



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In view of the aforesaid observations, no case is made out for transfer of the petition under Section 9 of Hindu Marriage Act, from Bhiwani to Karnal. Hence, the transfer application is hereby dismissed.

However, a request is made to the court concerned, where the petition under Section 9 of Hindu Marriage Act, is pending, to look into the aspect of recording of the statement of the applicant, as and when required, through electronic mode.

25.02.2025
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(ARCHANA PURI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : Yes/No