



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

Sr. No.107

TA-268-2025

Date of Decision: 19.09.2025

ANAMIKA SIKRI

....Applicant

Versus

ATIN KUMAR

.....Respondent

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present:- None for the applicant.

Mr. Sarbjit Singh, Advocate
for the respondent.

ARCHANA PURI, J. (Oral)

The case was fixed today, for the purpose of announcement of order. However, none has made appearance on behalf of the applicant.

The applicant-wife has filed the present application for seeking transfer of the civil suit i.e. CS/655/2024, titled '*Atin Kumar Vs. Anamika Sikri*', filed by the respondent-husband, pending in the Courts at SAS Nagar and she seeks transfer of the same to the Court of competent jurisdiction at Amritsar.

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



Counsel for the parties were heard.

At the very outset, it was submitted by the counsel for the applicant that the marriage between the parties to the lis, had taken place on 25.01.2019. One son born from the said wedlock, who is about 6 years old, is in the care and custody of the applicant. On account of the matrimonial dispute, the parties are residing separate. Also, it was asserted that both the applicant, as well as the respondent are in banking sector. The dispute arose between the parties, *vis-a-vis*, the arrangement made by the applicant for rendering financial assistance to her father, as well as her sister, whereupon, the respondent forced her to have the property of her father, which is situated at Makhu and transfer the same in the name of her husband i.e. the respondent, to which the applicant had objected. Also, it was submitted that there are three cases arising from the matrimonial dispute of the parties i.e. petition under the Protection of Women from Domestic Violence Act i.e. COMA/465/2021, the petition under Section 13 of the Hindu Marriage Act i.e. HMA/438/2023, filed by the applicant and the guardianship petition i.e. GW/134/2021, filed by the respondent, which are pending in the Courts at Amritsar. Also, it was submitted that the subject matter of the civil suit is already under adjudication, in the domestic violence proceedings, ongoing between the parties.

Considering the same, it was submitted that while taking care of the son, as well as considering the distance between the two places, it is difficult for the applicant, to defend the civil suit, filed at the instance of the respondent.



On the other hand, counsel for the respondent, while making reference to the reply, had refuted the claim of the applicant, though the fact of the marriage, as well as birth of the child and pendency of three cases, was not disputed. However, it was submitted that the civil suit, which is sought to be transferred, has been filed by the respondent, for seeking declaration about ownership in possession of 2/3rd share of the respondent, in the property situated in SAS Nagar. Further, he had sought relief of permanent injunction. Since the property in question is situated in SAS Nagar, the civil suit ought to be adjudicated in the Courts at SAS Nagar, where the property is situated. Moreover, it was submitted that the applicant is a confident working woman and she can very well take care of the litigation, which is of civil nature, wherein not on all the dates, she is required to make appearance before the Court.

In view of the rival submissions aforesaid, it is pertinent to mention that generally, the Courts give preference to the convenience of wife, while adjudicating on the transfer application relating to the matrimonial dispute, though it may not be a thumb rule. Various other circumstances, spelt out from the material brought on record, also ought to be taken into consideration and then balancing of convenience/inconvenience of the parties, has to be made. The subject suit relates to the ownership rights of the property, which is situated in SAS Nagar. Even though, it is an outcome of the matrimonial dispute between the parties, but directly, it is not a dispute qua the marital relationship of the parties. Undeniably, the suit property is situated in SAS Nagar.



Section 16 CPC, *inter alia* provides that suits for the determination of any right or interest in the immovable property shall be instituted in the Court, within the local limits of whose jurisdiction the property is situated. Even though, the suit is not based solely, on account of disruption in the matrimonial alliance, but however, if it is taken to be impliedly an outcome of the matrimonial dispute, then also, there are circumstances, which are required to be taken into consideration. No doubt, as impressed upon by the counsel for the applicant, there is a son born from the wedlock of the parties, who is about 6 years old. Though, watching the interest of the child, is a weighing factor, while the Courts consider the transfer applications, but however, other circumstances spelt out, also have to be taken into consideration. The applicant, as well as the respondent, in the present case, are working in Bank. So far as the settlement of life is concerned, the applicant is at par with the respondent, since she is also working in Bank like the respondent. From the contents of the application itself, it is evident that the applicant was looking after the needs of her unmarried sister, from her own money, since she is earning. Besides the same, she had been helping her father also, to pay off his loan, which she had facilitated. Considering the same, when the applicant is rendering financial assistance to her parental family, it is quite obvious that she is financially independent woman. She is bound to be an educated person, as she is a 'Banker' by profession.

Considering the aforesaid circumstances, more particularly, when the child is not of such an age, where he requires motherly help, at all times of the day and also considering the fact of the applicant residing at her



parental place at Amritsar, where her father and sister are also available to look after the child, in the eventuality of her proceeding further to pursue the litigation, no such inconvenience is spelt out, on the part of the applicant, to pursue the litigation.

Otherwise also, it is pertinent to mention that so far as the assertion on the part of the applicant that the suit property, which is subject matter of the civil suit, is also under adjudication in the domestic violence proceedings, is concerned, no document relating to the same has been brought on record by the applicant. Anyhow, counsel for the respondent had placed on record copy of the order dated 22.05.2023, passed by the Courts at Amritsar in COMA/465/2021, which is complaint under the Protection of Women from Domestic Violence Act, wherein an application was filed by the applicant, to restrain the respondent(s) from interfering into her peaceful possession, over the residential house situated at 1st Floor of Sivanta Greens, Wave Estate, Block-B, Sector 85, Mohali, which forms the part of the civil suit, filed by the respondent, which is pending in the Courts at SAS Nagar, copy whereof is Annexure P-1. This suit is sought to be transferred by way of present application. Though, perusal of the aforesaid order reveals that learned trial Court had denied the relief of injunction, which was sought by the applicant, but however, from the said order, it is evident that the applicant had asserted her exclusive possession over the questioned property. Even if it be so, then also, it is quite evident that if the applicant can look after her property situated at SAS Nagar, she can very well take care of the litigation relating to the same also, which is pending in the Courts at SAS Nagar, more particularly, when it is a civil suit, where her presence is



not required, on each and every date of hearing.

Anyhow, considering the inability to make appearance, as and when so required in the civil suit, the applicant always has an option to file an application for making appearance before the Court concerned, through virtual mode.

In view of the aforesaid fact situation and weighing the convenience/inconvenience of the parties concerned, no substantial reason is coming forth, to transfer the civil suit, which relates to the dispute, with regard to immovable property and thus, jurisdictional balance ought not be disturbed.

Hence, the transfer application is hereby dismissed.

19.09.2025
Himanshu Vats

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : Yes/No