



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

114

**TA-465-2025(O&M)
Date of Decision: July 08, 2025**

Arshiya Joshi

...Applicant

Versus

Sharad Joshi

...Respondent

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.Dhirinder Chopra, Advocate
for the applicant.

Mr.Prateek Sodhi and Mr.Prashant Vir Gupta, Advocates
for the respondent.

ARCHANA PURI, J.

The applicant-wife has filed the present application for seeking transfer of the petition under Section 13(1) (a) of the Hindu Marriage Act, filed by respondent-husband bearing No.HMA-383-2024, titled 'Sharad Joshi vs. Arshiya Joshi', pending in the Family Court, Dera Bassi, SAS Nagar, Mohali and she seeks transfer of the same to the Court of competent jurisdiction at Moga.

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

Learned counsel for the parties heard.

At the very outset, it is submitted by learned counsel for the



applicant that marriage between the parties to the lis, had taken place on 08.12.2023. However, no child was born from the said wedlock. On account of matrimonial dispute, the parties are residing separate. The applicant is doctor by profession and working as General Practitioner in New South Wales, Australia. She has also filed a complaint under Section 12 of the Protection of Women from Domestic Violence Act, which is pending in Moga.

Also, it is submitted by learned counsel for the applicant that since the applicant is residing in Australia, the present application has been filed through her Attorney, who is mother of the applicant. It is further submitted that parents of the applicant are practising advocates. However, on account of age, they are not active in practice. Also, learned counsel has made reference to the contents of paragraph No.14 of the application to assert about the manner, in which, it shall be difficult for the applicant to travel all the way from Australia and then pursue the litigation, which is pending in Derabassi. Considering the distance between the two places to be 200 kms., a prayer has been made for transfer of the divorce petition.

However, on the other hand, learned counsel for the respondent, while making reference to the reply filed as well as the documents annexed thereto, have resisted the claim for transfer. In fact, it is submitted that the applicant has not approached the Court with clean hands. She herself is residing in Australia and she is fighting proxy battle, with regard to the matrimonial dispute. In fact, it is submitted that all the litigation, copies whereof, have been annexed with the reply, were initiated at the instance of



the applicant, through her mother, with the sole purpose to harass the respondent. In fact, learned counsel for the respondent, while making reference to the various documents have submitted that there is influence of parents of the applicant, at the local bar at Moga, where the criminal case is pending, relating to which, transfer application has also been filed and on the basis of the said influence only, the arrest of the parents of the respondent was stayed by this Court in CRM-M-23443-2025, copy whereof is Annexure R-4. Also, they submit that even qua transfer of the complaint bearing No.COMA-1786-2025 under Section 12 of the DV Act, CRM-M-29836-2025 was filed by the respondent and while passing the order dated 27.05.2025, copy whereof is Annexure R-7, this Court had again observed about the parents of the applicant to be practising lawyers at Moga, on which account, no lawyer is accepting the brief of the respondent and on this account, the interim relief was granted to the respondent.

In the given circumstances, it is submitted that there is apprehension of exercise of influence at the instance of the parents of the application and precisely when, all the litigation has been initiated at the behest of applicant through her Attorney, who is mother of the applicant.

In view of the rival submissions aforesaid, it is pertinent to mention that generally, the Courts give weightage to the convenience of the wife, while considering the transfer application, relating to the matrimonial dispute, but however, it is not a thumb rule. Various other circumstances spelt out from the material brought on record, ought to be taken into consideration. Few of them are to consider the economic soundness of either



of the parties; the social strata of the spouses and behavioral pattern; their standard of life and antecedents prior to marriage and subsequent thereto as well as circumstances of either of the parties, in eking out their livelihood and under whose protected umbrella, they are seeking their sustenance to life. Besides the aforesaid, others are balance of convenience or inconvenience to parties or witnesses; and also with regard to the convenience or inconvenience of a particular place of trial having regard to the nature of evidence, on the points involved in the suit; issues raised by the parties; reasonable apprehension in the mind of the litigant that he/she might not get justice in the Court in which the proceedings are pending; and also take into consideration the impact of the pending litigation upon considerable section of public interest etc. But anyhow, the aforesaid factors are only illustrative in nature and by no means, can be treated as exhaustive.

No such straight jacket formula can be applied for the exercise of power of transfer of the case by the Court concerned. However, the cardinal principle for the exercise of power under Section 24 CPC is that the **‘ends of justice’** demand the transfer of the suit, appeal or other proceeding. Considering the same, circumstantial flexibility, ought to be there. Each case has to be considered in its own background and distinction of one significant detail, may alter the decision of the transfer application.

Considering the aforesaid note of caution, adverting to the case in hand, it is pertinent to mention that there is no child born from the wedlock of the parties to the lis. The applicant is also doctor by profession and she is residing in Australia. The entire litigation was initiated at her



instance, through her Attorney, who is her mother. The parents of the applicant are practising advocates in District Court, Moga.

Though, it has been asserted that there is exercise of influence, on the part of the parents of the applicant, on account of which, no lawyer at Moga is ready to accept the brief of the respondent, which observation has also been made in the orders passed by the Coordinate Bench, copies whereof have been placed along with the reply, but however, it is not so concluded about the exercise of influence in this manner. But anyhow, assurance of fair trial is the first imperative of dispensation of justice. Justice should not only be done, but it should also appear to be done.

As evident from the orders, there is reluctance, on the part of the members of local bar at Moga, to take up the case of the respondent. Considering the same and also taking into consideration about the factum of applicant to be well-educated and professionally qualified and carrying on job in Australia, she is also bound to be financially affluent.

Considering all the aforesaid circumstances together with the fact of parents of the applicant being Advocates at Moga, no such satisfactory reason is spelt to accept the transfer application. Hence, the transfer application sans merit and the same is hereby dismissed.

July 08, 2025
Vgulati

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No