



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of Decision: 05.03.2025

1. TA-576-2024

SWARAN KAUR

....Applicant

Versus

KULDIP SINGH

.....Respondent

2. TA-584-2024

SWARAN KAUR

....Applicant

Versus

KULDIP SINGH

.....Respondent

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present:- Applicant-in-person, along with
Mr. V. Ramswaroop, Advocate (in both the cases).

Respondent-in-person, along with
Mr. H.S. Rakhra, Advocate (in both the cases).

ARCHANA PURI, J. (Oral)

Vide this order, I shall dispose of two applications, filed by Swaran Kaur-applicant/wife, for seeking transfer of the litigation, pending between the parties to the lis.

TA-576-2024 has been filed by the applicant-wife for seeking transfer of the petition under Section 13 of the Hindu Marriage Act i.e.



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DMC/452/2024, titled '*Kuldip Singh Vs. Swaran Kaur*', filed at the instance of respondent-husband.

TA-584-2024 has been filed by the applicant-wife for seeking transfer of the petition under Section 6 and 8 of the Hindu Minority and Guardianship Act i.e. GW/12/2024, titled '*Kuldip Singh Vs. Swaran Kaur and another*', filed by the respondent-husband.

Both the aforesaid cases are pending in the Courts at Jalandhar and the applicant is seeking transfer of the same to the Court of competent jurisdiction at Hoshiarpur.

In pursuance of the notice issued, respondent has made appearance through counsel and filed reply in TA-576-2024. The counsel for the respondent submits that the reply filed in TA-576-2024 be taken into consideration for the purposes of disposal of the connected application i.e. TA-584-2024, as well.

Learned 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 25.12.2016. Two children were born from the said wedlock; the daughter, at present, is about 6 years old and the son is about 4½ years old. Both the said children are in the care and custody of the respondent/husband. In fact, it is submitted that they were snatched by the respondent, at the time of ousting the applicant, from the matrimonial house. On account of the matrimonial dispute, there are various rounds of litigation, between the parties. The respondent-husband has filed two petitions, which are sought to be transferred, as stated aforesaid. The applicant-wife has filed the petition under the Protection of Women from Domestic Violence Act i.e.



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COMA/30/2024, which is pending in the Courts at Hoshiarpur. Besides the same, it is submitted that the applicant has also filed the guardianship petition, which is also pending in the Courts at Hoshiarpur. Both the said petitions are pursued by the respondent.

Furthermore, it is submitted by the counsel that even though, the applicant is an M.A. B.Ed. and PGDCA diploma-holder, by qualification, but however, she is not employed anywhere. Earlier, she was employed as a Teacher, but after her marriage, she had left the job. In fact, it is submitted that the respondent himself is working as a Zonal Manager with ATLAS COPCO INDIA Pvt. Ltd., an air compressor supplier company, based in Gurugram and he is drawing a salary of about Rs.2,00,000/- per month. In the given circumstances, when the applicant is not having any source of earning, it is submitted by the counsel for the applicant, that it is difficult for her, to defend the litigation pending at Jalandhar, more particularly, when other litigation initiated at her instance is already pursued by the respondent in the Courts at Hoshiarpur.

On the contrary, the counsel for the respondent, while making reference to the reply filed, submits that the applications have been filed with the false assertions. In fact, there is wrongful conduct, on the part of the applicant. Furthermore, the counsel for the respondent submits that the brother of the applicant, being in Excise department, wields influence. Also, it is submitted that the brother of the applicant, as well as her cousin, had come to her matrimonial home and had picked up a fight with the respondent, as a result whereof, an FIR bearing No.18 dated 26.02.2024 was got lodged by the respondent, under Sections 323, 452 and 34 IPC, at Police Station Chabbewal, District Hoshiarpur.



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Furthermore, it is submitted that the applicant is well-qualified and is working as a Teacher, but the counsel do not know as to where the applicant is working. Also, it is submitted that the respondent is having threat to his life, at the instance of the family of the applicant. As such, a prayer has been made for dismissal of the transfer application.

In view of the submissions aforesaid, it is pertinent to mention that the Courts consistently hold about the preference to be given to the convenience of the wife, in case of the transfer applications relating to the matrimonial dispute. However, it is not a thumb rule. Various other circumstances, spelt out from the material brought on record, also ought to be taken into consideration. Each case is to be decided on its own facts and circumstances. One different fact may lead to different decision, with regard to the transfer application. Therefore, each case is to be appraised on its own facts.

Undisputedly, both the children born from the said wedlock, are in the care and custody of the respondent. Both the sides have filed rival guardianship petitions, which are still pending and they are being pursued by the parties. Even though, FIR has been got registered by the respondent, against the brother of the appliU+0063ant, but however, this Court is intentionally keeping a restraint to make mention, relating to the merits/demerits of the filing of the said FIR. Solely, taking place of such single incident, does not *ipso facto* lead to the conclusion about the applicant and her family to be wielding influence upon the local Police.

May it be so that some unfortunate incident had taken place in the matrimonial house of the applicant, but however, relating to the same, proceedings initiated by the respondent will have its own course.



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Simultaneously, the fact remains that the applicant is, even though, a qualified person, but she is not having any source of earning. This fact also as to be considered, along with the fact about the respondent himself to be doing job at Gurugram. On query by the Court, it is also stated by the respondent, who is present in the Court today, that both the children remain in the custody of his parents. Also, he has disclosed about himself to be living in a joint family, consisting of his parents, himself, his two children, his elder brother and sister-in-law.

In view of the aforesaid fact situation and also considering the applicant to be having no source of earning, the transfer applications are allowed and the petition under Section 13 of the Hindu Marriage Act i.e. DMC/452/2024, titled '*Kuldip Singh Vs. Swaran Kaur*', as well as, the petition under Section 6 and 8 of the Hindu Minority and Guardianship Act i.e. GW/12/2024, titled '*Kuldip Singh Vs. Swaran Kaur and another*', filed by the respondent-husband, stand transferred from the Family Court, Jalandhar, to the Court of competent jurisdiction at Hoshiarpur. The requisite record of the aforesaid case be sent by the Family Court, Jalandhar, to the District and Sessions Judge, Hoshiarpur.

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

05.03.2025
Himanshu

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : Yes/No