



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

Sr. No.415

TA-601-2024

Date of Decision: 19.08.2025

VIRPAL KAUR ALIAS BIRBAL KAUR

....Applicant

Versus

HARPREET SINGH

....Respondent

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present:- Mr. Kunal Jindia, Legal Aid Counsel
for the applicant.

Mr. Daksh Sharma, Advocate
for the respondent.

ARCHANA PURI, J. (Oral)

The applicant-wife has filed the present application for seeking transfer of the petition under Section 10 of the Hindu Marriage Act i.e. HMA/217/2023, titled '*Harpreet Singh Vs. Birbal Kaur*', filed by the respondent-husband, pending in the Family Court (Camp Court) Dasuya, District Hoshiarpur and she seeks transfer of the same to the Court of competent jurisdiction at Patiala.

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

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 17.05.2020, but no child was born from the said wedlock. It was the second marriage of the applicant. From the first marriage, which was dissolved vide



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decree of divorce, the applicant had two children, one son aged 16 years and one daughter aged 13 years, who are in the care and custody of the applicant. On account of the matrimonial dispute, the parties are residing separate. The applicant is not having any source of earning and as such, she along with her children, is dependent upon her parental family. In the given circumstances, it is submitted that it is difficult for the applicant, to commute a distance of about 205 kilometres, to defend the petition under Section 10 of the Hindu Marriage Act.

On the contrary, the counsel for the respondent, while making reference to the reply filed, submits that the applicant has not come to the Court with clean hands. In fact, it is submitted that the first marriage of the applicant was still subsisting, at the time of performance of second marriage with the respondent, on 17.05.2020. Furthermore, it is submitted that it shall be too harsh for the respondent also, if the transfer application is allowed, as he is required to take care of his aged mother, who is having several medical issues.

In view of the rival submissions aforesaid, it is pertinent to mention that the Courts generally lean towards the convenience of wife, while considering the transfer application relating to the matrimonial dispute. However, it is not a thumb rule. Various other circumstances spelt out from the material brought on record, ought to be taken into consideration. Although, it is submitted by the counsel for the respondent that first marriage of the applicant was still subsisting, at the time of performance of marriage with the respondent, but however, there is no material coming on record, thereby depicting the date of dissolution of marriage. In fact, in the application, the fact of dissolution of marriage, by



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way of decree of divorce has been stated by the applicant. In the given circumstances, the appraisal about the date of dissolution of first marriage shall be appropriately considered by learned Family Court. However, there are two children born from the first marriage of the applicant, who are in her care and custody. The distance between the two places is about 205 kilometres. Though, it is stated that the mother of the respondent is having medical issues, but however, no material has come on record, to so substantiate this assertion.

In view of the aforesaid fact situation, the transfer application is allowed and the petition under Section 10 of the Hindu Marriage Act i.e. HMA/217/2023, titled '*Harpreet Singh Vs. Birbal Kaur*', filed by the respondent-husband, stands transferred from the Family Court (Camp Court) Dasuya, District Hoshiarpur, to the Court of competent jurisdiction at Patiala. The requisite record of the aforesaid case be sent by the Family Court (Camp Court) Dasuya, to the District and Sessions Judge, Patiala.

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

19.08.2025

Himanshu

**(ARCHANA PURI)
JUDGE**

Whether speaking/reasoned : Yes

Whether reportable : Yes/No