



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

Sr. No.116

TA-582-2025

Date of Decision: 19.11.2025

NIHARIKA

....Applicant

Versus

PARDEEP KUMAR

.....Respondent

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present:- Ms. Karamjeet Sharma, Legal Aid Counsel
for the applicant.

Respondent proceeded against *ex parte*
vide order dated 10.11.2025.

ARCHANA PURI, J. (Oral)

The applicant-wife has filed the present application for seeking transfer of the petition under Section 13 of the Hindu Marriage Act i.e. HMA/683/2024, titled '*Pardeep Kumar Vs. Niharika*', filed by the respondent-husband, pending in the Family Court, Kaithal and she seeks transfer of the same to the Court of competent jurisdiction at Chandigarh.

Upon notice issued, the respondent did not make appearance, despite service and as such, was proceeded against *ex parte*.

Counsel for the applicant heard.



It is submitted by the counsel for the applicant that the marriage between the parties to the lis, had taken place on 28.11.2012. Two children were born from the said wedlock, one daughter aged about 11 years and one son aged about 9 years. They are presently in the care and custody of the respondent-husband. It is submitted that the applicant is not having any source of earning and she is residing with her widow mother, who is an aged lady. Even, she has filed the petition under Section 144 of the Bharatiya Nagarik Suraksha Sanhita, 2023, as well as the petition under the Protection of Women from Domestic Violence Act, which are pending in the Courts at Chandigarh, at appearance stage. In the given circumstances, it is submitted that it is difficult for the applicant, to commute a distance of about 125 kms., to defend the divorce petition.

Considering the submissions aforesaid, it is pertinent to mention that generally, the Courts lean towards convenience of the wife, while adjudicating the transfer application relating to the matrimonial dispute. However, the same is not a thumb rule. Various other circumstances, spelt out from the material brought on record, ought to be taken into consideration. Each case has to be decided in its own factual background. One distinctive circumstance may change the decision of the case. There are various factors, which ought to be taken into consideration, such like, number of children born from the broken marriage (if any), which spouse is having the custody of the children and his/her capacity to take care of the children, the distance between the two places, as well as the litigation already pending between the parties and so on and so forth.



In the case in hand, the weighing factor is about two children i.e. one daughter and one son, born from the wedlock of the parties, who are in the age-group of 9-11 years, to be in the care and custody of the respondent. Very true, the Court consider the fact of the custody of children, but however, on query by this Court, it has been submitted that the respondent is staying at Kaithal, along with his parents. The applicant is not having any source of earning and she is dependent upon her widow mother. Even, the distance between the two places is about 125 kms. In the given circumstances, it shall become difficult for the applicant, to pursue the divorce petition. Above all, the respondent has not come forward to resist the transfer application. Though, the children are falling in the sensitive age-group, but however, in the absence of the respondent, they can very well be taken care of by the parents of the respondents. Otherwise also, the respondent has an option to file an application to seek permission of the Court concerned, to make appearance through virtual mode. If any such application is filed, the Court concerned shall pass an appropriate order, in the fitness of the circumstances.

In view of the aforesaid fact situation and while balancing the convenience/inconvenience of both the sides, it is just and expedient to accept the application. Hence, the transfer application is allowed and the petition under Section 13 of the Hindu Marriage Act i.e. HMA/683/2024, titled '*Pardeep Kumar Vs. Niharika*', filed by the respondent-husband, stands transferred from the Family Court, Kaithal, to the Court of competent jurisdiction at Chandigarh. The requisite record of the aforesaid case be sent



by the Family Court, Kaithal, to the District and Sessions Judge, Chandigarh.

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

19.11.2025
Himanshu Vats

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : Yes/No