



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

121

TA-673-2025(O&M)

Date of Decision: September 03, 2025

Smt.Amnindra Kaur @ Amninder Kaur

...Applicant

Versus

Shri Baldev Singh Hundal

...Respondent

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.J.S.Ghumman, Advocate
for the applicant.

Mr.Amit Chopra, Advocate
for the respondent.

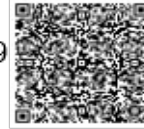
ARCHANA PURI, J.

The applicant-wife has filed the present application for seeking transfer of the petition under Section 9 of the Hindu Marriage Act, filed by respondent-husband, bearing No.HMA-172-2024, titled 'Baldev Singh Hundal vs. Amninder Kaur', pending in the Family Court, Khanna and she seeks transfer of the same to the Court of competent jurisdiction at Dehradun, Uttarakhand.

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

Counsel for the parties heard.

At the very outset, it is submitted by learned counsel for the applicant that the applicant is resident of Dehradun. The marriage between

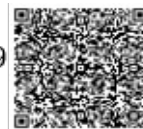


the parties had taken place on 08.02.2009 and one daughter, born from the said wedlock, who is aged about 11 years, is in the care and custody of the applicant. The applicant has already filed petition under Section 13 of the Hindu Marriage Act, which is prior in time and the same is pending adjudication in the Courts at Dehradun.

Considering the distance between the two places to be approximately 250 kms., it is submitted that it is difficult for the applicant to defend the petition thrust upon her, more particularly, while she is having grown-up daughter, who is studying in a school at Dehradun.

Furthermore, learned counsel for the applicant submits that this Court has jurisdiction to deal with the present application, in view of the provisions of Section 23(3) CPC, as the application for seeking transfer, is to be filed, only in the High Court of the place, where the litigation is pending. The petition sought to be transferred is pending in the Courts at Khanna, which is under the jurisdiction of this High Court. In this regard, learned counsel for the applicant has placed reliance upon the decision rendered by the Hon'ble Madras High Court in case titled '***Mrs.Sunita rep. by her Power Agent and father Mr.T.S.Srinivasan vs. S.Krishnan***'.

On the other hand, learned counsel for the respondent refutes the claim for transfer. In fact, while making reference to the reply, he submits that the respondent himself is not keeping good health. He is patient of Hernia and has been operated upon on 26.05.,2025 at Sohana Hospital, Mohali. Also, he is suffering from depression from the last two years and is undergoing treatment from Krishna Hospital, Ambala City. The respondent



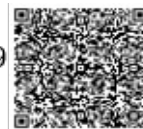
is also unemployed.

Firstly, with regard to the jurisdiction, suffice to consider the provisions of Section 23(3) CPC, which reads, as herein given:-

(3)Where such Courts are subordinate to different High Courts, the application shall be made to the High Court within the local limits of whose jurisdiction the Court in which the suit is brought is situate.

The petition, which has been sought to be transferred is pending in the Courts at Khanna, which falls within the jurisdiction of this Court. Considering the same, the transfer application, as such, is maintainable and ought to be filed before this Court. In this regard, beneficial reference is made to the decision so relied upon by learned counsel for the applicant. The relevant paragraph of the same, is reproduced, as herein given:-

“4. In support of the above averments, the learned counsel appearing for the petitioner also relied on the decision of the Andhra Pradesh High Court in Mamta Gupta V.Mukund Kumar Guptha reported in AIR 2000 AP. 394 wherein it has been held that the High Courts are empowered by Section 23(3) CPC to transfer a case and it is for the party seeking transfer either to choose the forum under Section 25 or 25 depending upon his social, economic status. But, to say that the party has to file an application only before the Supreme Court under Section 25, would amount to emasculating Section 23(3). Both the provisions are independent and option is left to the party approaching the court for transfer. Therefore, Section 25 did not overlap Section 23(3) CPC.”



Also therein, reference is made to ***Vempati Sarada vs. Vempati Kaladhar, 2003 AIHC 2876***, wherein, it was held as under:-

"11. A reading of both the provisions will clearly go to show that these provisions are independent provisions and absolutely there is no conflict between these two provisions. Merely because the High Court is empowered to order transfer of a proceeding pending before a Subordinate Court within its jurisdiction to another Court Subordinate to another High court, it may not come in the way of the powers which may be exercised by the Supreme Court under Section 25 of the Code. Hence, by a close reading of both provisions aforesaid, I am of the considered opinion that the power under Section 23(3) of the Code can be definitely exercised by this Court and the same is not in any way curtailed by Section 25 of the Code. In fact, I am well supported in this regard by the view expressed by this Court in Mamta Gupta's case. Hence, in view of the same, I am of the considered opinion that such power can be exercised by invoking Section 23(3) of the Code. Further, taking into consideration the nature of allegations made in the affidavit filed in support of the Transfer CMP and also the allegations made in the counter affidavit filed by the respondent/husband, i am also of the opinion that in view of the facts which had been explained by the petitioner/wife definitely she is entitled to the relief as prayed for in the present transfer CMP."

Considering the aforesaid case law, it was further observed, as herein given:-

"7. From the above judgments it is clear that the proposition of law has been well settled that this is the competent Court having jurisdiction under Section 23(3) CPC to entertain this

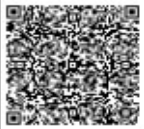


Transfer CMP as it is for the party seeking transfer either to choose the form under Section 23(3) or 25 and further as per Section 23(3) CPC, where such courts before which two matrimonial cases pending are subordinate to different High Courts, the application shall be made for transfer to the High Court within the local limits of whose jurisdiction to Court in which the suit is brought is situate. Further, considering the facts and circumstances of the case, particularly the fact that the petition filed at Pune by the petitioner/wife is earlier in point of time and also taking into consideration of the allegations made by the petitioner, I am of the considered view that the O.P.No.1939 of 2006 instituted by the respondent/husband is to be withdrawn and transferred to the file of the Civil Judge Junior Division at Pune to be heard together along with M.P.No:230 of 2006.”

In view of the aforesaid case law, this Court has jurisdiction to deal with the present transfer application.

Considering the aforesaid, advertng to the case in hand. It is pertinent to mention that distance between the two places is about 250 kms., and it shall be definitely difficult for the applicant to commute to defend the petition, more particularly, when she is having custody of the grown-up daughter, who is studying in a school at Dehradun, which in itself is a weighing factor.

Considering the aforesaid circumstances, as spelt out, it is just and expedient to accept the transfer application. As such, the present transfer application is hereby allowed and the petition under Section 9 of the Hindu Marriage Act, filed by respondent-husband, bearing No.HMA-



TA-673-2025

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172-2024, titled ‘Baldev Singh Hundal vs. Amninder Kaur’, stands transferred from the Family Court, Khanna, to the Court of competent jurisdiction at Dehradun. The requisite record of the aforesaid case be sent by the Family Court, Khanna to the District and Sessions Judge, Dehradun.

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

September 03, 2025
Vgulati

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No