



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

Sr. No.101

**TA-802-2022 (O&M)
Date of Decision: 19.03.2025**

VEERPAL KAUR

....Applicant

Versus

PARMINDER SINGH

.....Respondent

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present:- Mr. Piyush Sharma, Advocate
for the applicant.

Ms. R.K. Grewal, Advocate
for the respondent.

ARCHANA PURI, J. (Oral)

CM-1366-CII-2025

The present application has been filed for placing on record the affidavit of the respondent, in compliance of the order dated 25.09.2024, passed by this Court.

In view of the averments made in the application, same is allowed and the requisite affidavit is taken on record.

Main case

Perusal of the order dated 25.09.2024 reveals that the jurisdiction of the Courts at Barnala was questioned by the applicant, on the basis whereof, the affidavits were ordered to be filed by this Court. The respective affidavits have been filed. Suffice to consider the Annexures annexed with the affidavit by the respondent, which reflects about the property to be in the name of the applicant-Veerpal Kaur and the electricity bill having issued in her name only.



In view of the recitals of the said affidavit and documents annexed, the question of jurisdiction shall be adjudicated by the Court concerned.

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/107/2022, titled '*Parminder Singh Vs. Veerpal kaur*', filed by the respondent-husband, pending in the Family Court, Barnala and she seeks transfer of the same to the Court of competent jurisdiction at Ferozepur.

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

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 05.10.2005. Two children were born from the said wedlock, who at the time of filing of the application were 15 years old and 13 years old. However, on account of the matrimonial discord, the applicant was turned out of the matrimonial home and now, she is residing at Talwandi Bhai, District Ferozepur, at her parental place. After filing of the present application, the applicant has also filed the petition under the Protection of Women from Domestic Violence Act, as well as the petition under Section 125 Cr.P.C., which are pending in the Courts at Ferozepur. In fact, the applicant has no source of earning and therefore, it is difficult for her to commute a distance of about 145 kilometres, to defend the divorce petition in the Courts at Barnala, which otherwise also, has no jurisdiction.

On the contrary, the counsel the respondent, while making reference to the contents of the reply, has submitted that both the children



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born from the wedlock of the parties, who are aged about 17 years and 13 years, at present, are in the care and custody of the respondent. The elder son Jaskaran Singh, whose date of birth is 15.09.2007, is diagnosed with Autism and he is having only 50% I.Q. Also, he has been put in the category of 'mild mental retardation' and the reports of Dayanand Medical College and Hospital, Ludhiana, relating to his mental status are Annexures R-1 and R-2. The said child has also been registered in the School for Special Children Welfare Society, Raikot, District Ludhiana. Also, it is submitted that the younger son, Manraj Singh, who is 13 years old at present, is a student of 7th class in Baba Isher Singh, Baba Kundan Singh (N) Public School, which falls in Tehsil Jagraon, District Ludhiana.

Besides the aforesaid also, the counsel for the respondent has submitted that the applicant has not come to the Court with clean hands. In fact, she has intentionally suppressed the fact of filing of civil suit i.e. CS/563/2021, titled '*Veer Pal Kaur Vs. Parminder Singh and others*', which is pending in the Courts at Barnala. In the given circumstances, it is submitted that some moderation ought to be made, while keeping in view the fact of both the children, being in the care and custody of the respondent. However, so far as the plea of Barnala Courts not having jurisdiction is concerned, the counsel for the respondent submits that suffice to make mention to the affidavit of Parminder Singh, which has been brought on record, as well as the electricity bill and the photographs of the property, situated at Barnala, which reflects about the residence of the applicant, as well as the respondent in Barnala only.

In view of the submissions aforesaid, it is pertinent to mention that even though, the Courts give preference to the convenience of the wife,



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in case of transfer applications relating to the matrimonial dispute, but however, it is not a thumb rule. Various other circumstances spelt out from the material brought on record, also has to be taken into consideration. The weighing factor in the present case is the fact of two sons born from the said wedlock to be in the care and custody of the respondent, more particularly, when the elder son, Jaskaran Singh, is suffering from Autism. Suffice to make reference to reports, Annexures R-1 and R-2, in this regard. Also further, he is registered in the School for Special Children Welfare Society, on account of his mental health. Besides the same, the other child is also studying within the jurisdiction of Jagraon. Also, it is significant to note that the applicant did not come forth with clean hands. In fact, there is material concealment of the civil suit, filed at her instance, already pending in the Courts at Barnala. This fact has not been disclosed. On query by this Court, no satisfactory reason has come forth for non-disclosure of the said material fact.

Considering the aforesaid fact situation and also balancing the convenience/inconvenience of both the parties, more particularly, keeping in view the fact of children residing with the respondent, no case is made out for transferring the divorce petition.

Hence, the transfer application is hereby dismissed.

19.03.2025
Himanshu

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : Yes/No