

TA-797-2025

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2025:PHHC:155954



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

Sr. No.116

TA-797-2025

Date of Decision: 12.11.2025

NEETU SAINI

....Applicant

Versus

DINESH SAINI AND ANOTHER

.....Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present:- Mr. Pawan K. Sharma, Advocate
for the applicant.

Mr. Rahul Vohra and Ms. Sonali Aggarwal, Advocates
for respondent No.1 (sole contesting respondent).

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/328/2023, titled '*Dinesh Kumar Saini Vs. Neetu Saini*', filed by the respondent No.1-husband, pending in the Family Court, Ambala and she seeks transfer of the same to the Court of competent jurisdiction at Panchkula.

In pursuance of notice issued, respondent No.1, who is the sole contesting 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 26.11.2015. One daughter was born from the said wedlock in the month of October, 2019 and she is in the care and custody of the applicant. On

account of the matrimonial dispute, the parties are residing separate. The



applicant is working as a dance teacher in Vidhaya Bhawan, Panchkula and she is also taking care of the minor daughter. Even, she has filed the separate petition for seeking maintenance for herself, as well as the minor daughter. However, the maintenance was awarded to the minor daughter. But despite the Court order, respondent No.1 has not paid any maintenance, till the filing of the present application. Also, it is submitted that the execution is still pending to secure the maintenance, which is now paid in bits and pieces. Furthermore, it is submitted that respondent No.1 is also facing trial in the Courts at Panchkula, relating to FIR bearing No.383/2021, under Sections 323, 406, 498-A and 506 IPC, got lodged by the applicant at Police Station Chandimandir, Panchkula. Besides the same, respondent No.1 had also filed the guardianship petition i.e. GW/16/2024, which is also pending in the Courts at Panchkula. In the given circumstances, it is submitted that due to her job exigencies, it is difficult for the applicant to defend the divorce petition, more particularly, while taking care of the minor daughter.

On the other hand, counsel for respondent No.1, resist the transfer application. He submits that application has been filed only with a purpose to cause harassment to respondent No.1. In fact, the applicant was proceeded against *ex parte* in the divorce petition and when the entire evidence has been recorded, she has filed the present application. Even, she joined the proceedings before learned Family Court, only during the pendency of the transfer application. Furthermore, it is submitted that erroneously, it has been stated about the daughter to have been born in the year 2019, whereas, while making reference to Annexures R-4 and R-5, counsel submits that the daughter was born in the year 2018.



In view of the submissions aforesaid, at the very outset, it is pertinent to mention that even though, birth of the daughter was stated to be in the year 2019 and as per the documents produced, the birth had taken place in the year 2018, but however, it matters not much. The fact remains that the daughter is still a minor. Much emphasis has been laid upon the fact of the applicant to be working as a dance teacher and it is also stated that her earnings are about Rs.40,000/- per month. However, it is pertinent to note that there are various factors, which ought to be taken into consideration, while adjudicating on the transfer application, relating to the matrimonial dispute. Each case has to be decided in its own factual background. One distinctive circumstance, may lead to a different decision of the transfer application. In the case in hand, the daughter born from the wedlock of the parties, who is about 5-6 years old, is in the care and custody of the applicant. Even though, the applicant may be financially independent, while working as a dance teacher, but however, she is taking care of the minor child and this is the most weighing factor. Besides the same, respondent No.1 is also facing trial in the criminal case, in the Courts at Panchkula, wherein he is required to make appearance on each and every date of hearing.

Also, respondent No.1 has filed the guardianship petition, which is pending in the Courts at Panchkula. Furthermore, respondent No.1 had been reluctant to make payment of the maintenance to his daughter, on which account, the applicant was also constrained to file execution. Also, it is submitted by the counsel for the applicant that it is only during the pendency of the present petition that respondent No.1 is making payment of maintenance, that too in bits and pieces.



Considering all the aforesaid circumstances, the transfer application is allowed and the petition under Section 13 of the Hindu Marriage Act i.e. HMA/328/2023, titled '*Dinesh Kumar Saini Vs. Neetu Saini*', filed by the respondent No.1-husband, stands transferred from the Family Court, Ambala, to the Court of competent jurisdiction at Panchkula. The requisite record of the aforesaid case be sent by the Family Court, Ambala, to the District and Sessions Judge, Panchkula.

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

12.11.2025
Himanshu Vats

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : Yes/No