



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

Sr. No.110**TA-1108-2024****Date of Decision: 08.05.2025****RIMPI****....Applicant****Versus****DAVINDERJIT SINGH & ANOTHER****.....Respondents****CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI**

Present:- Mr. Karan Puggal, Advocate
for the applicant.

Mr. Sarabjit Singh, Advocate
for contesting respondent No.1.

Mr. Yashdeep Shah, Advocate
for proforma respondent No.2.

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/146/2023 titled “*Davinderjit Singh v/s Rimpi and Another*”, filed by the respondent No.1/husband, which is pending in the Family Court, Baba Bakala, District Amritsar and she seeks transfer of the same to the court of competent jurisdiction at Patti, District Tarn Taran.

Upon notice, the respondent made appearance through counsel and filed the 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 was solemnized on 25.11.2012 and two children born from the said wedlock, aged about 10 years and 03 years, respectively, are presently in the care and custody of the



respondent. However, on account of matrimonial dispute, the parties are residing separate. Even, the applicant had filed petition under Section 25 of the Guardians and Wards Act, which was pending in the courts at Patti and the respondent was proceeded against *ex parte* and the *ex parte* decree has been passed, vide judgment and decree dated 29.05.2024, copies whereof are Annexures P-1 and P-2. Besides the same, the applicant has also filed execution application, for seeking compliance of the aforesaid judgment and the same is also pending in the courts at Patti. It is also pin-pointed that respondent had filed an application under Order 9 Rule 13 CPC, thereby seeking setting aside of the *ex parte* judgment and the same is also pending in the courts at Patti. Besides the same, even the applicant has filed maintenance petition as well as petition under Section 12 of the Protection of Women from Domestic Violence Act, which are also pending in the courts at Patti.

In the given circumstances, it is submitted that all the litigation arising from this matrimonial dispute, is pending in the courts at Patti, but however, only the divorce petition is pending in the courts at Baba Bakala. The applicant is not having any source of earning and is dependent upon her parental family. As such, it is difficult for her to commute a distance of about 75 kms, to defend the divorce petition.

On the other hand, counsel for the respondent while making reference to the reply, submits that both the children are in the custody of the respondent. He is serving in BSF at Chattisgarh and Baba Bakala, is his ancestral family, wherein, his joint family is living, which consists of father, mother, brother and his wife as well as the minor children.

In the given circumstances, it is submitted that when he is taking care of the minor children, therefore, there is no mitigating



circumstance in favour of the applicant. Even, the distance is not such, which is difficult for her to commute.

In view of the rival submissions aforesaid, it is pertinent to mention that generally the courts lean towards the convenience of wife, in case of matrimonial dispute, but however, various other circumstances, as spelt out from the material brought on record, ought to be taken into consideration. One differential circumstance may lead to the different decision in the transfer application.

In the case in hand, there are two children born from the wedlock of the parties. The daughter is about 11 years old at present and is passing through her teenage. Likewise, the son is about 4 years old. Even though, the respondent is having the custody of the children, but he himself is serving in BSF at Chattisgarh. On query by the court, it has been disclosed that both the children are taken care by the mother of the respondent. The father is the attorney holder, to defend the litigation pending between the parties to the lis.

Considering the aforesaid circumstances, when the mother is there to take care of both the children and also taking into consideration all other litigation arising from this marriage to be pending at Patti, more particularly, when the applicant is not having any source of earning, the transfer application, as such, is hereby allowed and the petition under Section 13 of the Hindu Marriage Act i.e. HMA/146/2023 titled “*Davinderjit Singh v/s Rimpi and Another*”, filed by the respondent No.1/husband, stands transferred from the Family Court, Baba Bakala to the Family Court, Patti, District Tarn Taran. The requisite record of the aforesaid case be sent by the Family Court, Baba Bakala to the District and Sessions Judge, Tarn Taran.



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

08.05.2025
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(ARCHANA PURI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : Yes/No