



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Sr. No.114 (2 cases)

Date of Decision: 04.11.2025

1. TA-1479-2024

TAMANNA

....Applicant

Versus

ARUN KUMAR

....Respondent

2. TA-430-2025

TAMANNA

....Applicant

Versus

ARUN KUMAR

....Respondent

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present:- Mr. Munish Puri, Advocate
for the applicant (in both the cases).

Mr. Dheeraj Mahajan, Advocate
for the respondent (in both the cases).

ARCHANA PURI, J. (Oral)

These are two applications filed by Tamanna-applicant/wife, for
seeking transfer of the litigation, pending between the parties to the lis.



TA-1479-2024 has been filed for seeking transfer of the petition under Section 9 of the Hindu Marriage Act i.e. HMA/496/2024, titled '*Arun Kumar Vs. Tamanna*'.

TA-430-2025 has been filed for seeking transfer of the petition under Section 25 of the Guardians and Wards Act i.e. GW/54/2024, titled '*Arun Kumar Vs. Tamanna*', thereby seeking custody of the minor child, born from the wedlock of the parties to the lis.

Both the aforesaid cases are pending in the Courts at Gurdaspur and the applicant is seeking transfer of the same to the Court of competent jurisdiction at Pathankot.

In pursuance of the notice issued, respondent made appearance through counsel in both the applications. Counsel for the respondent has filed reply in TA-1479-2024 and he has given a statement that the said reply be considered as reply in the connected application i.e. TA-430-2025, as well.

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 12.11.2016. One son born from the said wedlock, who is about 7 years old at present, is in the care and custody of the applicant. Further, it is submitted that the applicant, at present, is residing with her parents at Pathankot. She is employed as a 'Science Mistress' and is presently posted at Government High School, Haveli, Dinanagar. Her son is studying in Kindergarten, at Christ-The King Convent School, Dinanagar. In the given circumstances, it is submitted that it is difficult for the applicant, to defend both the cases, which are pending in the Courts at Pathankot.



Furthermore, it is submitted that the applicant has filed the petition under Section 144 of the Bharatiya Nagarik Suraksha Sanhita, 2023, which is pending in the Courts at Pathankot. The distance between the two places is stated to be about 40 kms.

On the other hand, counsel for the respondent submits that the distance is not such, which causes any inconvenience to the applicant. In fact, the applicant is posted at Dinanagar, which falls enroute from Pathankot to Gurdaspur and the distance beyond this is maximum 12-15 kms.

In view of the submissions made aforesaid, it be noticed that Section 24 of the CPC empowers the High Court/District Court, to *inter alia* transfer any suit, appeal or other proceedings, pending before it or in any subordinate Court, for trial or disposal. This confers the comprehensive power to transfer said cases, at any stage '*either on an application by any party or suo motu*'. However, it is well-settled that there is no cast iron formula, unanimously applicable to all the situations. One differential/distinctive circumstance can change the decision of the transfer application. In the light of the same, it is incumbent upon the Court concerned, to exercise this power with due care, caution and circumspection. Time and again, broad propositions have been laid down by the Courts, as to what may constitute a ground for transfer of the case. There are numerous circumstances and amongst the same, the foremost to be relevant for the present application is the distance between the two places, where the applicant herself is residing and also where the petition under Section 9 of the Hindu Marriage, as well as the guardianship petition, are pending. Of course, the fact of custody of the child born from the broken marriage, ought to be taken into consideration, but at the same time, various other



circumstances, spelt out from the material brought on record, are also required to be taken into consideration.

Adverting to the case in hand, as already noticed aforesaid, it is pertinent to mention that the pending litigation is sought to be transferred from Gurdaspur to Pathankot, where the applicant, along with the minor son, is residing with her parental family. One need to take into consideration that the child is studying in Kindergarten in Dinanagar and the applicant herself is working as a 'Science Mistress' and is presently posted in Government High School, Haveli, Dinanagar. On query by this Court, it is disclosed by the counsel for the applicant that the applicant along with the child, proceeds to her workplace/school, in the car. It is quite obvious that since the applicant is working as a 'Science Mistress', she is a well-educated lady and highly-qualified professional. The transport connectivity is also good in that part of State, which as such, should not cause any difficulty for the applicant, even to cover 10-12 kilometres, from her workplace to Gurdaspur, where the litigation is pending. In this regard, beneficial reference is made to the judgment passed in the case titled '*Priyanka Agarwal Vs. Nandan Agarwal*', wherein Hon'ble Supreme Court refused to transfer the petition under Section 11 and 12 of the Hindu Marriage Act, filed by the husband, which was pending in the Family Court, Ghaziabad, Uttar Pradesh, to Principal Judge, Cuttack, Orissa, as the petitioner/wife was observed to be well-educated lady and a highly-qualified professional. Similarly, reference is also made to the judgment passed by Hon'ble Supreme Court in the case titled '*Brijal Mehul Shah Vs. Mehul Kumudbhai Shah*', wherein the petition under Section 9 of the Hindu Marriage Act, filed by the husband was not transferred from the Courts at Thane, to the Karkardooma Court, Delhi, as it



was observed that wife is an educated lady and working as a 'Journalist'. Both the aforesaid petitions were dismissed, as the Hon'ble Supreme Court found that there was no good ground to transfer the cases, as prayed for.

However, the case in hand, stands at a better footing, as the distance is only few kilometres i.e. 10-12 kilometres, which is required to be covered by the applicant, to pursue the litigation, more particularly, when there are parents of the applicant, to look after the child, who is school-going. Otherwise also, the applicant is not required to make appearance on each and every date of hearing. She always has an option to file an application to make appearance before the Court concerned, through virtual mode, in the eventuality of her having some pressing circumstance, which prevent her from making appearance physically, if so asked by the Court.

In view of the aforesaid fact situation, more particularly, considering the fact of the minor son being taken care of, by the parents of the applicant, there is no good reason, to accept the applications.

Hence, both the transfer applications i.e. TA-1479-2024 and TA-430-2025, are hereby dismissed.

04.11.2025

Himanshu Vats

**(ARCHANA PURI)
JUDGE**

Whether speaking/reasoned : Yes

Whether reportable : Yes/No