



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

Sr. No.119

**TA-52-2026 (O&M)
Date of Decision: 30.03.2026**

HARJINDER KAUR

....Applicant

Versus

HARINDER SINGH

.....Respondent

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present:- Mr. Akshay Chadha, Advocate
for the applicant.

None for the respondent.

ARCHANA PURI, J. (Oral)

CM-2038-CII-2026

Keeping in view the averments made in the application, same is
allowed.

CM-2039-CII-2026

The present application has been filed at the behest of the
applicant, for placing on record the correct copy of the petition under
Section 13 of the Hindu Marriage Act, as Annexure P-5.

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

Main case



As per the observations made in the order dated 10.03.2026, despite service, the respondent did not make appearance on that date. Even today, he has not made appearance. As such, the respondent is proceeded against *ex parte*.

Counsel for the applicant heard.

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/270/2023, titled '*Harjinder Singh Vs. Harjinder Kaur*', filed by the respondent-husband, pending in the Family Court (Camp Court) Dasuya, District Hoshiarpur and she seeks transfer of the same to the Court of competent jurisdiction at Gurdaspur.

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 25.06.2014. Two children were born from the said wedlock; one son, who was born on 08.08.2015 and one daughter, who was born on 02.02.2019. On account of matrimonial dispute, both the said children are in the care and custody of the respondent/husband. Also, counsel submits that the applicant is not having any source of earning and as such, is dependent upon her parental family. Moreover, she is a handicapped person. She is suffering from 42% disability of the lower leg, on account of shortening of leg by 1½ inch. In this regard, counsel makes reference to the copy of the disability certificate, which is Annexure P-2. Further, counsel submits that on account of this broken marriage, the applicant had filed the petition under the Protection of Women from Domestic Violence Act i.e. COMA/12/2022,



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which is pending at Gurdaspur and the respondent is making appearance in the same. Also, there is petition under Section 125 Cr.P.C. i.e. MNT-125/4759/2025, filed by the applicant, which is pending at Gurdaspur, but however, counsel submits that she does not know about the present status of the proceedings.

Besides the aforesaid, counsel submits that the applicant had got lodged an FIR bearing No.251 dated 20.12.2021, under Sections 498, 223 of IPC, at Police Station City Gurdaspur, District Gurdaspur. In the said criminal proceedings, the respondent has since been declared Proclaimed Offender, by the Court. Furthermore, counsel submits that the respondent, on this account, has filed the divorce petition, through his Special Power of Attorney i.e. his father, namely, Amarjit Singh. The distance between the two places is stated to be about 80 kms.

In view of the submissions aforesaid, it is pertinent to mention that the respondent is not pursuing the criminal case, got registered by the applicant and therein, he has been declared Proclaimed Offender. In fact, the respondent is pursuing the petition under the Protection of Women from Domestic Violence Act, which is pending at Gurdaspur. Even, the petition under Section 125 Cr.P.C., filed by the applicant, is pending in the Courts at Gurdaspur. Above it, the applicant is not having any source of earning. Also, the fact of the applicant having locomotor disability to the extent of 42%, requires to be taken into consideration.

No doubt, when the children are born from the broken marriage, priority is to be given to the convenience of the children, but however, the



same is not a thumb rule. With regard to the children being taken care of by the spouse, their age also ought to be taken into consideration. Above it, the conduct of the spouse, who has the custody of the children, also ought to be considered. In the case in hand, the children are in the age-group of 7-11 years. As such, they are not of such an age, where the personal attention of the parent is required all the times. Precisely on this account, the conduct of the respondent, is also required to be noticed. Above all, it also has to be considered that the respondent has not come forward to resist the application.

In view of the aforesaid fact situation and taking into consideration the disability suffered by the applicant and also considering the fact about the respondent having not come forward to resist the application, the transfer application is allowed and the petition under Section 13 of the Hindu Marriage Act i.e. HMA/270/2023, titled '*Harjinder Singh Vs. Harjinder Kaur*', filed by the respondent-husband, stands transferred from the Family Court (Camp Court) Dasuya, District Hoshiarpur, to the Court of competent jurisdiction at Gurdaspur. The requisite record of the aforesaid case be sent by the Family Court (Camp Court) Dasuya, to the District and Sessions Judge, Gurdaspur.

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



However, taking into consideration the fact of the children being in the care and custody of the respondent, he always has an option to file an application for making appearance before the Court concerned, as and when required, through virtual mode and upon filing of such application, the Court concerned shall consider the same, in the fitness of circumstances and pass an appropriate order.

30.03.2026
Himanshu Vats

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : Yes/No