



TA-1299-2023 & TA-977-2023 (O&M)

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

Sr. No.109

Date of Decision: 07.04.2025

1.

TA-1299-2023

RAJAN JOLLY

....Applicant

Versus

AASHIMA JOLLY

.....Respondent

2.

TA-977-2023 (O&M)

AASHIMA JOLLY

....Applicant

Versus

RAJAN JOLLY

.....Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present:- Mr. Abhinav Aggarwal, Advocate
for the applicant (in TA-1299-2023) and
for the respondent (in TA-977-2023).

Mr. Gagandeep Singh Virk, Advocate
for the respondent (in TA-1299-2023) and
for the applicant (in TA-977-2023).

ARCHANA PURI, J. (Oral)

Vide this order, I shall dispose of two applications, filed by the applicants, for seeking transfer of the litigation, pending between them.



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TA-1299-2023 has been filed by the applicant-husband for seeking transfer of the petition under Section 13 of the Hindu Marriage Act, titled '*Aashima Jolly Vs. Rajan Jolly*' (Annexure P-1), filed by the wife, which is pending in the Family Court, Ludhiana and he seeks transfer of the same to the Court of competent jurisdiction at Karnal.

TA-977-2023 has been filed by the applicant-wife for seeking transfer of the petition under Section 9 of the Hindu Marriage Act i.e. HMA/634/2023, titled '*Rajan Jolly Vs. Aashima Jolly*', filed by the husband, which is pending in the Family Court, Karnal and she seeks transfer of the same to the Court of competent jurisdiction at Ludhiana.

Upon notice issued, the respondents in respective applications have made appearance through counsel and filed their respective replies.

The counsel for the parties heard.

For the convenience of discussion, the wife is referred as applicant and the husband is referred as respondent.

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 23.02.2008. Two children were born from the said wedlock, one daughter, who is aged about 15 years and one son, who is aged about 10 years. Both the children are in the care and custody of the applicant-wife. On account of the matrimonial dispute, the parties are residing separate. The counsel for the wife submits that the children are studying in DAV School, Pakhowal Road, Ludhiana and she herself is working as a teacher in Sri Chaitanya School, Ludhiana. In the given circumstances, while taking care of both the children and on account of the job exigencies, it is submitted that it is difficult for the applicant to commute a distance of about 200 kilometres, to



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defend the petition under Section 9 of the Hindu Marriage Act, filed by the respondent at Karnal. Moreover, she has also filed the petition under Section 13 of the Hindu Marriage Act, which is already pending in the Courts at Ludhiana and is pursued by the respondent.

On the contrary, the counsel for the respondent-husband, has resisted the claim for transfer of the petition under Section 9 of the Hindu Marriage Act. He submits that the applicant is a working woman and the children are grown up. As such, she may not have any problem to defend the petition under Section 9 of the Hindu Marriage Act, pending in the Courts at Karnal. Also, it is submitted that there are certain health issues faced by the respondent's father. He is 69 years old and is suffering from '*Penectomy Cancer*'. On account of this, it is submitted that it will be difficult for the respondent-husband to leave his father, while making appearance in the Courts at Ludhiana, to defend the litigation initiated by the wife, more particularly, when his mother has already died.

The counsel makes reference to the medical record, which has been placed on record as Annexures R-1 to R-3. Also, in view of the additional affidavit furnished by the husband, which is Annexure R-4, the counsel for the respondent submits that if the petition under Section 9 of the Hindu Marriage Act filed by him, is not transferred and the petition under Section 13 of the Hindu Marriage Act, filed by the wife, is transferred to Karnal, the respondent is ready to bear the litigation expenses and also to provide house for the applicant-wife.

In view of the contents of the additional affidavit, so filed, the counsel for the applicant submits that she is not inclined to take litigation expenses, as well as the provision for house, as stated in the affidavit.



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In view of the submissions aforesaid, it is pertinent to mention that even though, the Courts generally lean towards the convenience of the wife, in case of the transfer applications relating to the matrimonial disputes, but however, it is not a thumb rule. The Court also has to take into consideration the various circumstances, otherwise brought forth. In the case in hand, the respondent-husband claims about his father to be suffering from cancer and the medical record has also been brought on record. However, on query by the Court, it is submitted by the counsel for the respondent that at present, the father of the respondent, is not admitted in any hospital and he is to be taken to AIIMS, Delhi, off and on, for treatment. It has to be taken into consideration that both the children born from the said wedlock are residing with the wife. The applicant herself is also working. At the same time, it also has to be taken into consideration that in the civil matters, the presence of the parties is not required, on each and every date of hearing. Looking at the same and also considering the distance between the two places, no case is made out for transfer of the petition under Section 13 of the Hindu Marriage Act, filed by the applicant-wife, relating to TA-1299-2023.

However, TA-977-2023, is hereby allowed and the petition under Section 9 of the Hindu Marriage Act i.e. HMA/634/2023, titled '*Rajan Jolly Vs. Aashima Jolly*', filed by the respondent-husband, stands transferred from the Family Court, Karnal, to the Court of competent jurisdiction at Ludhiana. The requisite record of the aforesaid case be sent by the Family Court, Karnal, to the District and Sessions Judge, Ludhiana.

Learned District and Sessions Judge, Ludhiana, shall assign the said petition to the Family Court, Ludhiana. Even, the parties are directed to



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appear before the Family Court, Ludhiana, within a period of one month from today onwards.

However, to balance the convenience/inconvenience of both the parties, more particularly, when the father of the husband is stated to be not well, an option is available with the husband to file an application before the Court concerned, to make appearance through video conferencing, as and when required. Otherwise also, if the Court concerned, where the case is transferred, deems it necessary to secure the presence of the parties in person, it shall given a convenient date to accommodate the husband.

Accordingly, the transfer applications stands disposed of.

07.04.2025
Himanshu

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : Yes/No