



TA-1398-2024

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

Sr. No.109

TA-1398-2024

Date of Decision: 21.05.2025

REKHA

...Applicant

Versus

PARAMVIR

....Respondent

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present:- Mr. Abhishek Sindhvani and Mr. Sahil Dalal, Advocates
for the applicant.

Mr. Gursher Singh Bhandal, Advocate
for the 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/577/2023, titled '*Paramvir Vs. Rekha*', filed by the respondent-husband, pending in the Family Court, Panchkula and she seeks transfer of the same to the Court of competent jurisdiction at Jind.

Upon notice issued, the respondent made appearance through counsel and filed reply.

The counsel for the parties heard.

At the very outset, it is submitted by the counsel for the



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applicant that the marriage between the parties to the lis, had taken place on 14.10.2010. One son was born from the said wedlock, who is about 14 years old and is a student of 8th class. He is in the care and custody of the applicant. Even, the applicant had filed the petition under Section 125 Cr.P.C. in the Courts at Jind, which has since been allowed and the execution was filed, wherein the arrears were due towards the respondent. However, the same have been cleared, during the pendency of the present application. Besides the same, even the respondent had filed the petition under Section 25 of the Guardians and Wards Act, which was pending in the Courts at Hisar and had since been dismissed. Another petition under Section 25 of the Guardians and Wards Act, was filed by the respondent at Jind and the same was dismissed as withdrawn.

Also, it is submitted by the counsel for the applicant that the respondent, at first instance, had filed the petition under Section 13 of the Hindu Marriage Act, at Hisar, which, on the basis of the transfer application i.e. TA-27-2015, filed at the instance of the applicant, was transferred to Jind, vide order dated 14.01.2015, copy whereof is Annexure P-8. However, after transfer of the divorce petition, the same was dismissed in default, vide order dated 21.11.2017. Instead of seeking revival of the previous divorce petition, the respondent had filed the fresh divorce petition, which, as such, is not maintainable. Also, it is submitted that earlier, the applicant was working as a Teacher, but at present, she is a home-maker and as such, it is difficult for her to commute a distance of about 160 kilometres, to defend the divorce petition, which is not even maintainable.

On the other hand, the counsel for the respondent, while making



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reference to the reply filed, submits that the present application has been filed, only for causing harassment to the respondent. In fact, the various cases, earlier filed by the applicant in the Courts at Jind, after engagement of counsel by the respondent, were dismissed as withdrawn. Moreover, it is submitted that she is an educated lady, who was earlier working as Teacher and as such, she can very well pursue the litigation, pending at Panchkula.

In view of the submissions aforesaid, it is pertinent to mention that generally, the Courts lean towards the convenience of the wife, in case of transfer applications relating to the matrimonial disputes. Though, it may not be a thumb rule, but however, the various circumstances, spelt out from the material brought on record, ought to be taken into consideration. In the case in hand, the transfer application previously filed by the applicant was accepted and the divorce petition, previously filed by the respondent, was transferred from Hisar to Jind. However, after the transfer of the case, it was not pursued further by the respondent and the same was dismissed in default. Subsequently, the second divorce petition has been filed at Panchkula. The question of maintainability of the same is raised by the counsel for the applicant, but however, this Court is consciously keeping a restrain, from making any comment upon the same. This question shall be adjudicated by the Court concerned. Suffice to consider that the young son, aged about 14 years, is studying in 8th class in the school at Jind. He is in the care and custody of the applicant.

In view of the aforesaid fact situation, it is just and expedient to accept the application. Hence, the transfer application is allowed and the petition under Section 13 of the Hindu Marriage Act i.e. HMA/577/2023,



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titled '*Paramvir Vs. Rekha*', filed by the respondent-husband, stands transferred from the Family Court, Panchkula, to the Court of competent jurisdiction at Jind. The requisite record of the aforesaid case be sent by the Family Court, Panchkula, to the District and Sessions Judge, Jind.

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

21.05.2025

Himanshu

**(ARCHANA PURI)
JUDGE**

Whether speaking/reasoned : Yes

Whether reportable : Yes/No