



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

117

TA-1249-2023 (O&M)
Date of Decision: 15.01.2025

PUNEET KUMARI AND OTHERS

...Applicants

Versus

JAGDISH RAM

...Respondent

CORAM:- HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present: Mr. Vishal Munjal, Advocate
for the applicants.

Mr. Arun Takhi, Advocate
for the respondent.

HARPREET KAUR JEEWAN, J.

CM-18415-CII-2024

1. The application filed by the applicants for placing on record the medical record of applicants No.2, 3 and 5 and judgment and decree dated 28.05.2024 under Section 13-B of the Hindu Marriage Act, 1955 as Annexures P-6 to P-9, is allowed.

2. Annexures P-6 to P-9 are taken on record subject to all just exceptions. Office to tag the same at appropriate place.

Main case

1. The applicants are seeking transfer of Recovery Suit i.e. Civil Suit



No.816 of 2023 titled "Jagdish Ram vs. Puneet Kumari and others" (Annexure P-5) from District Rupnagar to District Court, Pathankot.

2. Learned counsel for the applicants contends that the marriage of the applicant No.1 was solemnized with the son of the respondent in March, 2018 and a male child was born out of the wedlock. However, the son of the respondent (husband of the applicant No.1) was a drug addict and applicant No.1 had even personally seen her husband while injecting the drugs. The applicant No.1 was turned out of her matrimonial home, as such, she filed a petition under Section 125 Cr.P.C. before Family Court, Pathankot (Annexure P-1).

2.1. It is also contended that the husband of applicant No.1 filed a petition under Section 9 of the Hindu Marriage Act, 1955 before the Family Court, Rupnagar (Annexure P-2). The said petition was transferred by this Court from Rupnagar to Pathankot vide order dated 24.11.2022 (Annexure P-3). The respondent, who is father-in-law of the applicant No.1 has filed a frivolous civil suit in the Court of Civil Judge (Senior Division) on 21.08.2023 (Annexure P-5) and even the parents, brother and married sister of the applicant No.1 have been made party in the said Civil Suit.

2.2. Learned counsel for the applicants further contends that the matrimonial dispute between the parties stands settled and even a joint petition for divorce under Section 13-B of the Hindu Marriage Act, 1955 filed by the applicant No.1 and her husband has already been allowed by the Family Court, Pathankot (Annexure P-6). He further submits that it is very difficult for the applicant No.1, who is having the custody of a minor child, whose age is about



5 years, to travel a distance of about 215 kms from Pathankot to Rupnagar. The applicant No.2 is a senior citizen and his age is 69 years, as such, prayer has been made to transfer the aforesaid Civil Suit from Rupnagar to Pathankot.

3. Reply on behalf of the respondent is already on record.

4. Learned counsel for the respondent submits that at the time of the marriage of the son of the respondent, applicant No.1 did not disclose that she was earlier married and her previous husband died on 15.08.2015 due to brain hemorrhage. The applicant No.1 had solemnized marriage with the son of the respondent by concealing material facts. He further contends that though the matrimonial dispute between the applicant No.1 and son of the respondent has already been culminated on the basis of a compromise dated 10.11.2023 (Annexure R-8), but the applicant No.1 has concealed these facts and given colour of a matrimonial dispute to the Civil Suit filed by the respondent. The applicant No.1 has filed the present transfer application, which is liable to be dismissed on the ground of concealment of facts. He submits that the ground for transfer raised by the applicant No.1, no more survives, since the petition under Section 13-B of the Hindu Marriage Act, 1955 has already been decided.

5. I have heard learned counsel for the parties and perused the paper-book.

6. Some of the facts need to be seen to appreciate the intention of the parties. The applicant No.1-wife filed the petition under Section 125 Cr.P.C. seeking maintenance on 17.11.2022. Thereafter, the respondent, who is father-in-law of the applicant No.1 filed a Civil Suit for recovery against his daughter-in-law (applicant No.1) and her relatives (Annexure P-5) on the ground that his



daughter-in-law and her parents had borrowed money from him for solemnizing marriage of applicant No.1 with his son. It is further noticed that the son of the respondent also filed petition under Section 9 of the Hindu Marriage Act, 1955 (Annexure R-1), where in para No.13, there is a reference of some transactions. It is further alleged in the said paragraph that some of the amount was returned, whereas a sum of Rs.2,82,000/- is still unpaid. The said petition was dismissed as withdrawn by the Family Court, Pathankot vide order dated 25.08.2023 (Annexure R-3).

7. It is also noticed that thereafter, there was a compromise between the parties, which was reduced into writing on 10.11.2023(Annexure R-8). The said compromise was duly signed by the applicant No.1-wife and the son of the respondent-husband. Even the respondent-Jagdish Ram had also signed the said compromise between the parties. As per the said compromise, it was settled that custody of the minor son shall remain with the applicant No.1-mother. No maintenance amount was paid either for the child or for the mother, however, an undertaking was obtained that applicant No.1 shall not file any case in future seeking for maintenance of herself and her son and she will never stake any claim against the property of child's grand-father(Jagdish Ram-respondent). It is also alleged that thereafter, both the parties filed a joint petition under Section 13-B of the Hindu Marriage Act, 1955 and the said petition was allowed by the Family Court, Pathankot vide judgment and decree dated 28.05.2024(AnnexureP-6).

8. Despite the aforesaid compromise, which is even signed by the respondent, the respondent is continuing with Civil Suit, which was filed prior



to the compromise having been effected between the parties and prior to the filing of the petition under Section 13-B of the Hindu Marriage Act, 1955.

9. The respondent is continuing with the civil proceedings in the Family Court, Rupnagar whereas applicant No.1 along with her minor child is residing at district Pathankot.

10. Keeping in view the aforesaid facts and conduct of the respondent, this Court is of the considered opinion that it is very difficult for the applicant No.1 to travel from Pathankot to Rupnagar to attend the date of hearing in the said Civil Suit, where the distance is about 215 kms. The argument raised by the learned counsel for the respondent that it is not arising out of a matrimonial dispute, is devoid of any merits, in view of the allegations in the civil suit filed by the respondent as well as in view of the history of litigation *inter se* the parties.

11. Keeping in view the facts and circumstances of the case; difficulty faced by the applicant No.1 and in view of the law laid down by Hon'ble the Supreme Court in Sumita Singh Vs. Kumar Sanjay and another AIR 2002 SC 396, Rajani Kishor Pardeshi Vs. Kishor Babulal Pardeshi (2005) 12 SCC 237 and N.C.V. Aishwarya Vs. A.S.Saravana Karthik Sha 2022 SCC Online SC 1199, the present petition is allowed and Civil Suit No.816 of 2023 titled "Jagdish Ram vs. Puneet Kumari and others" (Annexure P-5) pending in the Court of learned Civil Judge (Senior Division), Rupnagar, is ordered to be withdrawn from learned Civil Judge (Senior Division), Rupnagar and transferred to the Family Court, Pathankot.

12. Both the parties shall appear before the Family Court, Pathankot



on 11.02.2025.

13. It is made clear that observations made hereinabove would not affect the merit of the case.

**(HARPREET KAUR JEEWAN)
JUDGE**

15.01.2025

P.Bhatt

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No