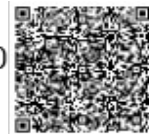


2025:PHHC:078900



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

TA-439-2023(O&M)

Date of Decision: July 02, 2025

Kavita

...Applicant

Versus

Naveen Thakran

...Respondent

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.Pawan Garg, Advocate
for the applicant.

Mr.Anurag Jain, Ms.Chaahat and
Mr.Rahul Chaudhary, Advocates
for the respondent.

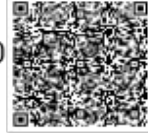
ARCHANA PURI, J.

The applicant-wife has filed the present application for seeking transfer of the petition under Section 13 of the Hindu Marriage Act, filed by respondent-husband bearing No.HMA-153-2023, titled 'Naveen Thakran vs. Kavita Thakran @ Kavita Grewal', pending in the Family Court, Gurugram and she seeks transfer of the same to the Court of competent jurisdiction at Bhiwani.

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

Learned counsel for the parties heard.

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

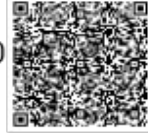


applicant that marriage between the parties to the lis, had taken place on 25.12.2012, but no child was born from the said wedlock. Unfortunately, matrimonial dispute arose between the parties, as a result whereof, the applicant, at present is residing at her parental place. She is an Advocate and is doing practice at Bhiwani. On account of litigation, she is not earning properly and otherwise also, she is preparing for higher judicial examination and thus, she has no sufficient means.

Also, it is submitted that the respondent is also practising as an Advocate at District Courts, Gurugram. The applicant had filed a petition under Section 125 Cr.P.C. in Bhiwani and she had also filed a petition under the Protection of Women from Domestic Violence Act. Further also, it is submitted that on the same set of circumstances, the respondent had filed divorce petition, upon which, the applicant had filed transfer application and the case was transferred from Gurugram to Bhiwani. Thereupon, the respondent had withdrawn the earlier divorce petition.

It is submitted that the applicant does not have sufficient means to sustain herself and therefore, it is difficult for her to pursue the litigation, initiated at the instance of the respondent, which is pending at Gurugram.

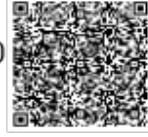
On the other hand, learned counsel for the respondent, while making reference to the reply as well as plethora of documents annexed thereto, has resisted the claim for transfer. In fact, it is submitted that the applicant is suppressing the material facts, which have bearing on the decision of the present transfer application. Further, it is submitted that the brother of the respondent is married to the real elder sister of the applicant,



namely Sarita and the applicant, from the year 2008 to December 2012 was residing with brother of the respondent at No.1117-P, Ist Floor, Sector-45, Gurugram. In December 2010, the applicant got employment with Canara Bank as Probationary Officer and was having salary of Rs.42,000/- per month.

After marriage, she resided with the respondent at H.No.157, Islampur, Gurugram and she resided only for a period of three months and thereafter, left the company of the respondent. However, she is not residing at Bhiwani. She, initially resided at Rubal Girls Hostel, 527, Mukherjee Nagar, near HDFC Bank, New Delhi for taking coaching of judicial services and administrative services. After completion of the coaching in the year 2014, she returned to Gurugram and again started residing with her sister at H.No.157, Islampur, Gurugram, after having unauthorised possession of one portion of the house. Thereafter, she resigned from the job of Canara Bank on 13.05.2014.

Further also, the applicant had booked one flat at RMG Residency, Sector-37, Gurugram and had taken possession of the same and had spent lakhs of rupees on the interiors of the said flat. She had also applied for the appointment to the post of Superior Judicial Services and along with the form, various income tax returns were filed, which reveals about her to be having good earnings. Besides the same, she had annexed the experience certificate issued by the District Bar Association, Gurugram, as well as District and Sessions Judge, Gurugram, which reveals about her to be practising in District Courts, Gurugram. In fact, learned counsel for the

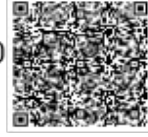
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respondent pin-pointed, on the basis of the documents that in the divorce petition, the service of the applicant was also effected at the address of Gurugram.

Also, learned counsel for the respondent has made reference to the copies of the various receipts of the payments made by the applicant to the builder for the purpose of purchase of flat in Gurugram and now she is residing there. Even, the reference has been made to the electricity consumer bill of the flat in question, copy whereof is Annexure R-12.

In the light of the documents annexed with the reply, it is submitted that it stands amply established that the applicant has not come out with truth. In fact, she has intentionally suppressed the material facts, with regard to place, where she is practising as an Advocate. In fact, she intends to choose Bhiwani, as a forum for transfer of the divorce petition, only to cause inconvenience to the respondent, with a view to deprive him of fair trial. In fact, learned counsel for the respondent submits that the applicant is also professionally qualified and is at par with the respondent. She is practising at Gurugram Courts and also is financially sound, which is reflected from the documents annexed with the reply. In these circumstances, it is submitted that the applicant is in a privileged position to pursue the litigation pending in Gurugram.

Even, learned counsel for the respondent further submits that after filing of the transfer application, also, the applicant is making appearance in various cases in Gurugram. He has placed on record copy of the judgment passed by the Courts at Gurugram in Civil Suit No.CS-604-

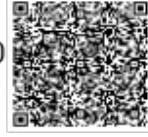


2018, instituted on 01.03.2018, decided on 05.03.2025, titled as ‘Long Lata @ Launge Lata vs. Sarita Thakran’ and therein, it is specifically pointed out that the applicant had appeared on behalf of the defendant before the Courts at Gurugram. As such, a prayer has been made for the dismissal of the application.

Considering the aforesaid submissions, the question arises, as to whether the divorce petition, ought to be transferred or not.

Section 24 of the CPC empowers a High Court or a District Court to transfer *inter alia* any suit, appeal or other proceeding, pending before it or in any Court, subordinate to it, to any other Court for trial and disposal. The said provision do confer comprehensive power on the Court to transfer suits, appeals or other proceedings, at any stage ‘either on an application by any party or suo motu’. No doubt, it is the discretionary power of transfer of cases, but however, such power has to be exercised with due care, caution and circumspection.

Time and again, the Courts have laid down the broad propositions, as to what may constitute a ground of transfer. Few of them are to consider the economic soundness of either of the parties; the social strata of the spouses and behavioral pattern; their stand of life and antecedents to marriage and subsequent thereto as well as circumstances of either of the parties, in eking out their livelihood and under whose protected umbrella, they are seeking their sustenance to life. Besides the aforesaid, others are balance of convenience or inconvenience to plaintiff or defendant or witnesses; convenience or inconvenience of a particular place of trial having regard to



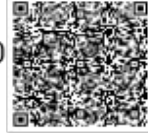
the nature of evidence, on the points involved in the suit; issues raised by the parties; reasonable apprehension in the mind of the litigant that he might not get justice in the court in which the suit is pending; important questions of law involved or a considerable section of public interest in the litigation; interest of justice demanding for transfer of suit, appeal or other proceeding, etc.

But anyhow, the aforesaid factors are only illustrative in nature and by no means, can be treated as exhaustive.

No such straight jacket formula can be applied for the exercise of power of transfer of the case by the Court concerned. However, the cardinal principle for the exercise of power under Section 24 CPC is that the 'ends of justice' demand the transfer of the suit, appeal or other proceeding. Considering the same, circumstantial flexibility, ought to be there. Each case has to be considered in its own background and distinction of one significant detail, may alter decision of the transfer application.

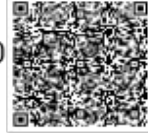
Considering the aforesaid note of caution, this Court has thoroughly gone through the various documents annexed with the reply and considered the submissions made by both the counsel.

Adverting to the case in hand, it is pertinent to mention that the both the applicant as well as the respondent, are well-educated and they are professionally qualified persons. Considering the educational status and indulgence of both, into the legal profession, it is pertinent to mention that that more onerous duty is caused upon the parties concerned to bring forth the material facts, which have bearing on the decision of the transfer

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application. The applicant submits that she is practising at Bhiwani and is not having sufficient means to pursue the litigation pending at Gurugram. However, from the plethora of documents annexed with the reply, on both the aforesaid counts, some doubt is definitely raised about the applicant suppressing the material facts. In fact, she was earlier working in Canara Bank and she had tendered resignation, copy whereof is Annexure R-1 and therein, the address mentioned is H.No.157, Village Islampur, Sohna Road, Gurgaon (Gurugram), which is her in-laws address. Annexure R-1/A is the request made by the applicant to the Director of M/s RMG Developers Pvt Ltd. to seek possession of Flat No.A-407 allotted to her and therein, she has mentioned her address as H.No.2156, HUDA, Sector-13, Behind Community Centre, Bhiwani. However, she was allotted a flat No.A-407 in Gurugram and had taken the possession of the same, on the request made by her.

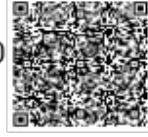
Besides the same, she had also applied for direct recruitment of District Judge in the High Court of Gujarat and therein, as per the requirement, she had annexed with experience certificate, copy whereof is Annexure R-2, which was issued under the signatures of President/Secretary of District Bar Association, Gurugram, wherein, the address of Bhiwani, has though been mentioned but, it is stated that she is regular legal practitioner as an Advocate in District Court Complex, Gurugram and her enrollment number has also been given and her work and conduct is also stated to be good. On the basis of the said certificate, another certificate was issued under the signatures of the then District and Sessions Judge, Gurugram,

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which has also been annexed with the reply. Besides the same, copies of various income tax returns have also been placed on record, which reveals about the applicant to be having good earnings and to be income tax payee. In Annexure R-3, for the assessment year 2020-2021, 2021-2022, 2022-2023, she had mentioned the address of Bhiwani, but however, while applying for the post of direct recruitment of District Judge, as advertised by the High Court of Gujarat, she had categorically stated about herself to be practising at Gurugram District and Sessions Court. She had given these details, in the application form, which she filled on 05.09.2022.

Besides the aforesaid, it is pertinent to mention that in the Form 26AS for the assessment year 2019-2020, she had mentioned her address as 157, Islampur, Goga Colony, Sohna Road, Gurgaon, Haryana, 122018. The same address was reflected in the Form 26AS for the assessment year 2020-2021. Even, in Annual Tax Statements for the assessment years 2021-2022 to 2023-2024, she had mentioned the address as 157, Islampur, Goga Colony, Sohna Road, Gurgaon.

Even the applicant had applied for HCS (judicial branch) preliminary exam 2011 and therein also, she had mentioned the address as 1117-P, Sector-45, District Gurgaon, Haryana. The applicant had also applied for Delhi Judicial Service examination-2014 and therein also, she had mentioned the address as 157, Islampur, Sohna Road, Gurgaon. She was called for the interview provisionally, as per the result, with regard to the post of Civil Judge, Cadre, 2013 and therein also, it is the same address, which is reflected in the call letter, which is annexed with the reply.

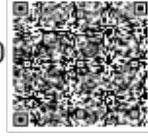


Besides the same, even the identity card has been issued in the name of applicant by District Bar Association, Gurgaon and in the same also, the address reflected is H.No.157, Islampur, Gurgaon. The same address is reflected in the Directory of the District Bar Association, Gurugram.

Also, it is pertinent to mention that certain documents were sent to the Judicial Magistrate Ist Class by the RMG Developers Pvt. Ltd., copy whereof is Annexure R-13 and these documents relate to Flat No.407, Tower-A, RMG Residency, Sector-37C, Gurugram, wherein, owner's name has been reflected as Kavita Thakran, who was allotted the flat, vide allotment letter dated 04.06.2016 and it also contains the allotment letter, which reflects about the mode of payment of purchase amount. It also contains the copy of the affidavit filed by the application, wherein, she has categorically stated her address to be 157, Village Islampur, Gurgaon.

Besides the same, various receipts have also been placed on record, wherein the applicant had made payment of huge amounts, towards the purchase of the flat No.A-407 of RMG Residency, Sector-37C, Gurugram. This reflects that the cash amounts were deposited by the applicant from time to time with the builder and she had taken the possession of the flat and thereupon, she is residing in the said flat.

Not only this, in the divorce petition filed by the respondent, her two addresses were given, one of Bhiwani her parental place and as well as her current address i.e. Flat No.407, Tower-A, RMG Residency, Sector-37C, Gurugram. Upon the summons, issued for effecting service upon her,



the Process Server had made the report about his having gone to Bhiwani, wherein, applicant's father Mahavir Singh Grewal was available, who orally had stated that his daughter Kavita Thakran resides at Gurugram and does not reside with them and he also orally apprised the Process Server that she lives at the address mentioned in the summons in Gurugram. An attempt was also made by the Process Server, to get the service effected upon the applicant, at the address of flat aforesaid and at first instance, the service was not effected and thereupon, on the second attempt made, the flat was locked and it was stated by the Process Server about he having verified about the fact of Kavita Thakran living in the said flat and he had affixed the copy of the summons, on the basis whereof, the service was held to have been effected and she was proceeded against ex-parte. It was later on, she joined the proceedings.

All the documents relating to the observations, as made aforesaid, are annexed with the reply, which amply establish about the applicant to be residing in Gurugram and also being practising Advocate of Gurugram Bar Association. Considering the aforesaid, it is obvious that the applicant, for certain vested interest, to cause inconvenience to the respondent, in pursuing the divorce petition, is seeking transfer of the divorce petition from Gurugram to Bhiwani, even though, she herself is residing at Gurugram. It is also evident from the judgment passed in CS-604-2018 that the applicant is appearing in the Courts at Gurugram as an Advocate. Thus, the malafide intention is writ large.

Even though, the Courts generally consider the convenience of

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the wife, in case of matrimonial dispute, but it is not a thumb rule. From the various circumstances as surfaced from the documents placed on record, it is evident that applicant is a well-educated lady and highly qualified professional and also having sufficient means to pursue the litigation at Gurugram. Hence, no case is made out for transfer of the divorce petition and thus, the transfer application is hereby dismissed.

July 02, 2025
Vgulati

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No