



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

Sr. No.116

Date of Decision: 02.05.2025

1.

TA-475-2024

SWAPANDEEP MAKKAR

....Applicant

Versus

TARANDEEP SINGH

.....Respondent

2.

TA-471-2024

SWAPANDEEP MAKKAR

....Applicant

Versus

TARANDEEP SINGH

.....Respondent

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present:- Mr. N.S.Dandiwal, Advocate
for the applicant
(in both the applications)

Mr. Veneet Sharma, Advocate
for the respondent
(in both the applications).

ARCHANA PURI, J. (Oral)

These are two applications filed at the instance of Swapandeeep Makkar-applicant/wife/mother, for seeking transfer of the litigation, pending between the parties to the lis.

TA-475-2024 has been filed by the applicant-wife for seeking



TA-475-2024 AND TA-471-2024

transfer of the petition under Section 9 of the Hindu Marriage Act i.e. HMA/408/2024, titled '*Tarandeep Singh v/s Swapandeep Makkar*', filed at the instance of respondent-husband.

TA-471-2024 has been filed by the applicant-mother for seeking transfer of the petition under Section 25 of the Guardians and Wards Act i.e. GW/30/2024, titled '*Tarandeep Singh v/s Swapandeep Makkar*', thereby seeking custody of the minor daughter, born from the wedlock of the parties to the lis.

Both the aforesaid cases are pending in the Courts at Amritsar and the applicant is seeking transfer of the same to the Court of competent jurisdiction at Ludhiana.

Upon notice, the respondent made appearance through counsel in both the applications and filed the respective replies.

Counsel for the parties heard.

At the very outset, counsel for the applicant submits that the marriage between the parties had taken place on 25.05.2014 and one daughter born from the said wedlock, who is about three years old, is in the care and custody of the applicant. On account of matrimonial dispute, the parties are residing separate. Also, it is submitted that both the applicant as well as respondent, are doctors by profession. In the given circumstances, on account of her busy working schedule, it is difficult for her to commute a distance of about 100 kms, to defend the petition under Section 9 of Hindu Marriage Act, as well as Guardianship petition, filed by the respondent at Amritsar.

On the other hand, counsel for the respondent, while making reference to the respective replies submits that the applicant is an educated



TA-475-2024 AND TA-471-2024

lady and she is a doctor by profession. Even the respondent is a busy doctor. Therefore, if the applications are accepted and the cases are transferred to Ludhiana, it shall be too harsh for the respondent also, who has to take care of his aged mother, to pursue the litigation. In fact, counsel has also placed reliance upon the order dated 28.02.2024, wherein already the transfer application was dismissed, while considering the wife to be an educated lady, working as Journalist.

In view of the rival submission made aforesaid and also the case law relied upon by the respondent, it is pertinent to mention that though, generally the courts consider the convenience of the wife, in the transfer applications relating to the matrimonial disputes, but however, it is not a thumb rule. Various other circumstances cropping up from the pleadings of the parties or the documents brought on record, also ought to be taken into consideration. It is not only the education of the wife or the profession followed by her, which is solely to be considered. Besides the same, even the other factors, such like the distance between the two places, number of children and the custody of the children with which parent, as well as number of other litigations pending between the parties etc, are required to be taken into consideration.

Considering the aforesaid circumstances also, each case has to be decided in the backdrop of the factual position spelt from the application, so filed. One differential circumstance coming forth can make lot of difference between the decision of the two transfer applications. Precisely on this account, no such reliance can be placed upon the case law cited by the counsel for the respondent, wherein the only factor which was considered, was the wife to be an educated lady and working as a Journalist.



TA-475-2024 AND TA-471-2024

However, in the case in hand, though the applicant is an educated lady and a doctor by profession, but however, she is also taking care of the three years old minor child. Though, the fact of the respondent being a doctor by profession, may be having a hectic schedule, as such, cannot be overlooked, but however, so far as profession is concerned, both applicant and the respondent are at par. However, the fact which outweighs the convenience of the applicant over the respondent is the child born from the wedlock of the parties, being three years old and being in the custody of the applicant/mother. This distinctive factor itself weighs the mind of the court, while deciding the present applications.

Hence, the transfer applications in view of the aforesaid factors are allowed and the petition under Section i.e. HMA/408/2024, titled '*Tarandeep Singh v/s Swapandeep Makkar*' and the petition under Section 25 of the Guardians and Wards Act i.e. GW/30/2024, titled '*Tarandeep Singh v/s Swapandeep Makkar*', filed by the respondent, stand transferred from the Family Court, Amritsar, to the Court of competent jurisdiction at Ludhiana. The requisite records of the aforesaid cases be sent by the Family Court, Amritsar to District and Sessions Judge, Ludhiana.

Learned District and Sessions Judge, Ludhiana, shall assign the said petitions to the Family Court, Ludhiana. The Court concerned shall adjourn both the cases, preferably for the same date, taking into consideration the convenience of the respondent also. Even, the parties are directed to appear before the Family Court, Ludhiana, within a period of one month from today onwards.

However, considering both the applicant as well as respondent, to be of profession, which provide onerous services to the general public,



TA-475-2024 AND TA-471-2024

they have the option to file an application before learned Trial Court, to make appearance through electronic mode, as and when required and upon filing of any such application, the court concerned shall consider their request and pass an appropriate order.

02.05.2025

Sonu

**(ARCHANA PURI)
JUDGE**

Whether speaking/reasoned : Yes

Whether reportable : Yes/No