



TA-855-2024

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

Sr. No.222

TA-855-2024

Date of Decision: 26.09.2025

SAPNA

....Applicant

Versus

VINAY

.....Respondent

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present:- Ms. Parul Saini, Advocate
for the applicant.

Mr. Akashdeep Singh, 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. DMC/392/2024, titled '*Vinay Vs. Sapna*', filed by the respondent-husband, pending in the Family Court, Rohtak and she seeks transfer of the same to the Court of competent jurisdiction at Panipat.

In pursuance of notice issued, the respondent made appearance through counsel and filed reply.

Counsel for the parties heard.

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 25.02.2015. Two sons were born from the said wedlock, who are about 8-9 years old. It is submitted that custody of both the sons is forcibly retained



TA-855-2024

by the respondent. The applicant was turned out of the matrimonial house, after being subjected to abuse, harassment and beatings and she begged to seek the custody of the children also, but however, it fell on the deaf ears. Further, counsel submits that the applicant is not well-educated lady, who is only 8th class pass and has no means to sustain herself. Also further, it is submitted that the applicant was not working, at the time of filing of the transfer application, but however, now she has started working as 'domestic helper' in 2-3 houses and her earnings are quite meagre. Under the constrained circumstances, she had filed the petition under Section 144 of the Bharatiya Nagarik Suraksha Sanhita, 2023, which is pending in the Courts at Panipat and the respondent has made appearance therein. In these circumstances, it is submitted that it is difficult for the applicant, to commute a distance of about 80 kms., to defend the divorce petition.

On the other hand, counsel for the respondent, while making reference to the reply, submits that the applicant has not come to the Court with clean hands. In fact, the respondent himself is taking care of two children, born from the said wedlock, who are studying in Zad Global School, Rohtak; attending tuition classes and also undergoing vocational training in the institute. In the given circumstances, when the schedule of the children is quite hectic and they require the presence of the respondent, to look after their education, as well as, vocational courses taken by them, it will be too harsh, not only for the respondent, but also for the children, who are in his care and custody. Furthermore, it is submitted that the respondent is taking care of his parents also, who are not keeping good health. In this regard, counsel has made reference to Annexure R-3.



TA-855-2024

In view of the rival submissions aforesaid, it is pertinent to mention that generally, the Courts lean towards the convenience of wife, while considering the transfer application relating to the matrimonial dispute. However, the same is not a thumb rule. Various other circumstances, spelt out from the material coming on record, ought to be taken into consideration and then some balancing of convenience/inconvenience of both the sides, ought to be made by the Courts. Each case has to be decided in its own background and circumstances. One distinctive/differential circumstance, may change the decision of the transfer application. In the case in hand, there are two children, born from the wedlock of the parties and they are in the custody of the respondent. However, it is a categorical claim of the applicant that she was turned out of the matrimonial house by the respondent and his family, after being subjected to abuse, harassment and beatings. Also, she was not allowed to take the custody of the children. It is under the forced circumstances that the respondent is having the custody of the children.

On query by this Court, it is disclosed by the counsel for the respondent that besides the children, the parents of the respondent are also living with him. It is a version put forth that the parents of the respondent are suffering from medical ailments and in this regard, reliance is placed upon Annexure R-3, which is report relating to 'Upper Gastrointestinal Endoscopy'. No doubt, the said report reveals about some disturbance in the functioning of the liver, but the advice given by the doctor is '*Follow up in OPD*'. Even, the father of the respondent is stated to be suffering from age-related problem. In any case, the problems are not grave, which prevents the



TA-855-2024

parents of the respondent in taking care of the children, who are in the age-group of 8-9 years, in the absence of respondent for few hours.

In view of the aforesaid fact situation, more particularly, watching the 'best interest' of the children and simultaneously, taking into consideration about the constrained circumstances, faced by the applicant, who herself is not having any source of earning and also considering the fact of one case, arising from the matrimonial dispute, already pending in the Courts at Panipat, in the fitness of circumstances, the transfer application is allowed and the petition under Section 13 of the Hindu Marriage Act i.e. DMC/392/2024, titled '*Vinay Vs. Sapna*', filed by the respondent-husband, stands transferred from the Family Court, Rohtak, to the Court of competent jurisdiction at Panipat. The requisite record of the aforesaid case be sent by the Family Court, Rohtak, to the District and Sessions Judge, Panipat.

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

26.09.2025
Himanshu Vats

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : Yes/No