



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

Sr. No.232

TA-209-2024

Date of Decision: 13.05.2025

RUPINDER KAUR

....Applicant

Versus

SURINDER PAL

.....Respondent

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present:- Mr. Ankit Rana, Advocate
for the applicant.

Ms. Amandeep Kaur, Advocate for
Mr. Narinder S. Lucky, 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/215/2023, titled '*Surinder Pal Vs. Rupinder Kaur*', filed by the respondent-husband, pending in the Family Court (Camp Court) Phagwara, District Kapurthala and she seeks transfer of the same to the Court of competent jurisdiction at Hoshiarpur.

Upon notice, 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 applicant that the marriage between the parties to the lis, had taken place on



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14.11.2011. Two children were born from the said wedlock, who are in the care and custody of the applicant. On account of the matrimonial dispute, the parties are residing separate. The applicant along with the minor children, is residing at her parental place at Hoshiarpur. Even, she had filed the petition under Section 125 Cr.P.C. at Hoshiarpur and the same has since been decided *ex parte*. Also, she has filed the petition under Sections 12, 17, 18, 19 and 20 of the Protection of Women from Domestic Violence Act, wherein the respondent has already made appearance and is pursuing the same. Though, this fact is not mentioned, as to whether the applicant is working or not, but however, on query by the Court, it is disclosed by the counsel for the applicant that she is not working. The distance between the two places is stated to be 50 kilometres and as such, it is difficult for the applicant to commute such a distance to defend the divorce petition.

On the other hand, the counsel appearing on behalf of the respondent, while making reference to the reply filed, has submitted that the applicant has concealed the material fact. Both the children born from the wedlock of the parties to the lis, are studying at St. Joseph Convent School, G.T. Road, Phagwara, District Kapurthala. In this regard, the counsel has made reference to the certificates, issued under the signatures of Principal of the said school, which are Annexures R-1 and R-2. Also, it is submitted that if the applicant could pursue the studies of her children at Phagwara, she can very well pursue the divorce petition also, which is pending in the Courts at Phagwara.

In view of the submissions aforesaid, it is pertinent to mention that even though, generally, the Courts lean towards the convenience of the wife in case of transfer applications relating to the matrimonial disputes, but



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however, it is not a thumb rule. Various other circumstances, as spelt out from the material brought on record, also ought to be taken into consideration. The very fact of the distance between the two places, as mentioned by the applicant to be 50 kilometres, is palpably wrong. From the internet, it is evident that the distance between the two places is only 37 kilometres. Apart from it, the applicant has not disclosed about the schooling of the children. When confronted with Annexures R-1 and R-2, which clearly spell about the children to be studying in St. Joseph Convent School, G.T. Road, Phagwara, District Kapurthala, the counsel for the applicant has admitted that both the children are studying in Phagwara. Though, he submits that children are doing up and down from Hoshiarpur, but there is nothing, as such, coming on record, with regard to the aforesaid assertion. In fact, the very fact of the schooling, which is a material fact, had not been mentioned, at first instance.

On query by the Court, it is disclosed by the counsel for the applicant that both the children are aged 9 years and 5 years. If the schooling of children of this age-group could be pursued by the mother at Phagwara, then there is no plausible reason coming forth for not being able to pursue the divorce petition at Phagwara.

In view of the aforesaid fact situation, no ground is made out to accept the transfer application. Hence, the same is hereby dismissed.

13.05.2025
Himanshu

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : Yes/No