



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

Sr. No.564**TA-147-2024****Date of Decision: 18.03.2025****DURGESH****....Applicant****Versus****SATISH KUMAR****....Respondent****CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI**

Present:- Mr. Shakti Singh, Advocate
for the applicant.

Mr. Ankur Kaushik, 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-3-2024 titled "Satish Kumar v/s Smt. Durgesh", filed by the respondent/husband, which is pending in the courts at Nuh and she seeks transfer of the same to the court of competent jurisdiction at Faridabad.

In pursuance of notice issued, counsel for the respondent has made appearance and submits that the respondent do not intend to file reply to the transfer application.

Counsel for the parties heard.

It is submitted by the counsel for the applicant that the marriage between the parties was solemnized on 06.12.2013 and two sons born from the said wedlock, who are 9 years and 5 years old, are in the care and custody of the respondent. Also, it is submitted that the applicant has no source of earning and she is dependent upon her parental family. In the



given circumstances, it is submitted that it is difficult for the applicant to commute a distance of about 110 kilometres, to defend the divorce petition.

On the other hand, counsel for the respondent submits that the respondent-husband is taking care of the minor children.

In view of the submissions aforesaid, a query was put by this Court to the counsel for the applicant about the exact distance between the two places, where the divorce petition is pending and where it is intended to be transferred. It is submitted that the distance of the Nuh Courts is about 75 kilometres, from Faridabad, but from the village of the applicant, it is about 110 kilometres. Even though, the applicant is stated to be not doing any work, but however, the fact remains that two sons, who are of tender age of 9 years and 5 years, are in the care and custody of the respondent-husband.

Though, time and again, it is held by the Courts that preference ought to be given to the claim of the wife, in case of transfer applications relating to the matrimonial dispute, but however, it is not a thumb rule. Various other circumstances spelt out, also ought to be taken into consideration. The weighing factor in the case in hand is about two children, who are of tender age of 9 years and 5 years, being in the custody of the respondent-husband.

On query by this Court, the counsel for the applicant could not state about the vocation followed by the respondent. Considering the aforesaid circumstances and considering the fact about the minor children residing with the husband, it is just and expedient that the divorce petition remains pending in the Courts at Nuh, where it had been filed, more particularly, when it is not coming forth about the vocation followed by the respondent and also about the detail of family members living with the respondent.



Considering the aforesaid circumstances and also considering the fact about the minor children residing with the respondent, no case is made out for allowing the application. Hence, the transfer application is hereby dismissed.

18.03.2025

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**(ARCHANA PURI)
JUDGE**

Whether speaking/reasoned : Yes

Whether reportable : Yes/No