



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

Sr. No.106

**TA-1556-2024 (O&M)
Date of Decision: 09.09.2025**

PRAGATI

....Applicant

Versus

KAPIL SHARMA

.....Respondent

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present:- Mr. Ashish Gupta, Advocate for
Mr. Rajbir Singh, Advocate
for the applicant.

Respondent proceeded against *ex parte*
vide order dated 30.07.2025.

ARCHANA PURI, J. (Oral)

CM-18278-CII-2025

The present application has been filed for placing on record the maintenance petition, divorce petition, as well as the petition under Section 9 of the Hindu Marriage Act.

In view of the averments made in the application, same is allowed and the requisite documents are taken on record.

Main case

The applicant-mother has filed the present application for seeking transfer of the petition under Section 25 of the Guardians and Wards Act i.e. GW/15/2024, titled '*Kapil Sharma Vs. Pragati*', filed by the respondent-father (husband of the applicant), pending in the Family Court (Camp Court) Derabassi, District SAS Nagar and she seeks transfer of the same to the Court of competent jurisdiction at Panchkula.



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In pursuance of notice issued, the respondent did not make appearance, despite service and as such, was proceeded against *ex parte*.

Counsel for the applicant heard.

It is submitted by the counsel for the applicant that the marriage between the parties to the lis, had taken place on 22.04.2017. Subject son born from the wedlock, is about 3 years old and is in the care and custody of the applicant. On account of the matrimonial dispute, the parties are residing separate. The applicant is not working and as such, has no source of earning. The applicant has already filed two cases, copies whereof are Annexures P-2 and P-3, which are relating to the maintenance petition i.e. MNT-125/57/2022, as well as the divorce petition. The said cases are pending in the Courts at Panchkula. Moreover, it is submitted that the respondent had filed the petition under Section 9 of the Hindu Marriage Act, at Derabassi and the same has since been transferred to Panchkula, on the basis of transfer application i.e. TA-749-2023, decided on 01.06.2023. It is submitted that the respondent is pursuing the maintenance petition, as well as the divorce petition, in the Courts at Panchkula. The distance between the two places is stated to be 25 kilometres.

In view of the aforesaid submissions, it is pertinent to mention that generally, the Courts lean towards convenience of wife, while considering transfer application relating to the matrimonial dispute. Each case has to be decided on its own factual background, while considering the various factors. In the case in hand, the distance between the two places, where the case is pending and where it is sought to be transferred, is though only 25 kilometres, but however, there are other factors, which weigh the mind of the Court to accept the transfer application. Primarily, it is the



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custody of the 3 years old son, which is with the applicant, who herself is not having any source of earning. Besides the same, the other weighing factors are that the respondent has not come forward to resist the application and also, there are three cases arising from the matrimonial dispute, two filed by the applicant i.e. the maintenance petition, as well as the divorce petition, which are being pursued by the respondent and third filed by the respondent i.e. the petition under Section 9 of the Hindu Marriage Act, which are pending in the Courts at Panchkula.

In view of the aforesaid fact situation, the transfer application is allowed and the petition under Section 25 of the Guardians and Wards Act i.e. GW/15/2024, titled '*Kapil Sharma Vs. Pragati*', filed by the respondent-father (husband of the applicant), stands transferred from the Family Court (Camp Court) Derabassi, District SAS Nagar, to the Court of competent jurisdiction at Panchkula. The requisite record of the aforesaid case be sent by the Family Court (Camp Court) Derabassi, to the District and Sessions Judge, Panchkula.

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

Pending civil miscellaneous application also stands disposed of.

09.09.2025
Himanshu

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : Yes/No