



2025:HHC:21730

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IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CMPMO No. 749 of 2024

Reserved on: 01.07.2025

Decided on: 08.07.2025

Priyanka

.....Petitioner

Versus

Kulbhushan Singh

.....Respondent

Coram

The Hon'ble Mr. Justice Satyen Vaidya, Judge

Whether approved for reporting?¹

For the Petitioner : Mr. Shyam Singh Chauhan, Advocate.

For the Respondent : Mr. Saurav Thakur, Advocate vice
Mr. Sarthak Mehta, Advocate.

Satyen Vaidya, Judge

The petitioner has filed the instant petition with a prayer to transfer the HMA Petition No. 359 of 2022, titled as Kulbhushan Singh vs. Priyanka from the files of Principal Judge, Family Court, Shimla to the files of Additional District Judge, Family Court, Paonta Sahib, District Sirmaur, H.P.

2. The petition, sought to be transferred, has been filed by the respondent-husband for dissolution of marriage by decree of divorce under Section 13 of the Hindu Marriage Act, 1955, before the Family Court, Shimla.

¹ Whether reporters of print and electronic media may be allowed to see the order?



3. The petitioner-wife is seeking transfer of the petition on the grounds firstly that she is resident of Tehsil Shillai in District Sirmaur, which is at considerable distance from Shimla, secondly, she is not having any source of income and lastly, her three years old daughter is dependent on her.

4. Though, the respondent-husband has not been able to file the reply as he is stated to be an Army personnel posted in the forward area, but the learned counsel representing the respondent, on instructions of the respondent, has opposed the prayer made in the petition. He submitted that the prayer for transfer is not bonafide as the petitioner knows that it will be difficult for the respondent to make arrangements of contesting the petition at Paonta Sahib due to nature of his job. He also pointed out that the petition for divorce filed by the respondent-husband at Shimla is pending for the last about three years and till date, no such prayer was made. According to learned counsel for the respondent, the evidence of respondent in divorce petition has already been concluded and now the petitioner herein/wife has to lead her evidence.



5. I have heard both learned counsel for the parties and have also gone through the material placed on record.

6. In the first instance it will be relevant to assess the competitive hardship of both the sides. The difficulty shown by the petitioner in contesting the case at Shimla due to long distance between the place of her residence and Shimla does not appear to be very convincing for the reasons that the divorce petition filed by the respondent-husband is pending at Shimla for the last about three years. The petitioner is already contesting the petition. She has engaged an Advocate. The evidence of respondent-husband has already been recorded. Since the petitioner-wife has been able to contest the divorce petition filed by the respondent-husband for such a long period, it is not shown as to what is the special circumstance which now prompted or forced the petitioner-wife to seek the transfer.

7. On the other hand, there is substance in the submission of learned counsel for the respondent-husband that on account of nature of job and duties of respondent, it will not be easy and convenient to make all the arrangements for contesting the petition for divorce at



Paonta Sahib as it will require time, money and effort. The respondent-husband being a serving personnel of Indian Army, is stated to be posted in a forward area and in such circumstances, the difficulty shown by him cannot be ignored.

8. As regards the financial constraint shown by the petitioner, the same also does not appear to be genuine for the reasons firstly that she had been managing the contest to the divorce petition of husband at Shimla for a long period and secondly, as per her own averments, she has been granted maintenance at the rate of Rs.8000/- per month in proceedings under the Protection of Women from Domestic Violence Act. In addition, Rs.1000/- per month has also been allowed towards the rent of the premises. The petitioner-wife has also filed application under Section 24 of the Hindu Marriage Act before learned Family Court, Shimla claiming maintenance pendente lite and litigation expenses, which is said to be pending adjudication. Even otherwise, the petitioner-wife having engaged a counsel at Shimla, need not necessarily attend each and every hearing personally. Still, in case petitioner-wife so wishes, she can



avail the benefit of joining the proceedings through Video Conferencing. 2025:HHC:21730

9. Lastly, the difficulty expressed by the petitioner-wife on account of attendance upon her daughter, also cannot be taken to be the sole criteria for acceding to the request of the petitioner. The place of residence of petitioner-wife and Paonta Sahib is not less than 80 Kilometers and for attending the case at Paonta Sahib, the petitioner-wife has to travel and make arrangements for the daughter. The petitioner-wife herself has stated that she is residing with her parents and hence, it is not a case where there is none-else with the petitioner to look after the child temporarily.

10. In **Dr. Subramaniam Swamy vs. Ramakrishna Hedge (1990) 1 SCC 4**, the Hon'ble Supreme Court has observed as under:

"8. Under the old section the State Government was empowered to transfer a suit, appeal or other proceeding pending in the High Court of that State to any other High Court on receipt of a report from the Judge trying or hearing the suit that there existed reasonable grounds for such transfer provided the State Government of the State in which the other High Court had its principal seat consented to the transfer.



The present [Section 25](#) confers the power of transfer on the Supreme Court and is of wide amplitude. Under the present provision the Supreme Court is empowered at any stage to transfer any suit, appeal or other proceeding from a High Court or other Civil Court in one State to a High Court or other Civil Court of another State if it is satisfied that such an order is expedient for the ends of justice. The cardinal principle for the exercise of power under this section is that the ends of justice demand the transfer of the suit, appeal or other proceeding. The question of expediency would depend on the facts and circumstances of each case but the paramount consideration for the exercise of power must be to meet the ends of justice. It is true that if more than one court has jurisdiction under the Code to try the suit, the plaintiff as dominus litis has a right to choose the Court and the defendant cannot demand that the suit be tried in any particular court convenient to him. The mere convenience of the parties or any one of them may not be enough for the exercise of power but it must also be shown that trial in the chosen forum will result in denial of justice. Cases are not unknown where a party seeking justice chooses a forum most inconvenient to the adversary with a view to depriving that party of a fair trial. The Parliament has, therefore, invested this Court with the discretion to transfer the case from one Court to another if that is considered expedient to meet the ends of justice. Words of wide amplitude--for the ends of justice--have been advisedly used to leave the matter to the discretion of the apex court as it is not possible to



conceive of all situations requiring or justifying the exercise of power. But the paramount consideration must be to see that justice according to law is done; if for achieving that objective the transfer of the case is imperative, there should be no hesitation to transfer the case even if it is likely to cause some inconvenience to the plaintiff. The petitioner's plea for the transfer of the case must be tested on this touchstone."

11. Considering the facts of instant case at the touchstone of above noticed exposition of law, I do not find existence of any impediment in dispensation of justice according to law, by continuation of proceedings before learned Family Court at Shimla.

12. In result, the petition is dismissed and accordingly disposed of, so also the pending application(s), if any.

8th July, 2025
(GR)

(Satyen Vaidya)
Judge