

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JODHPUR

CIVIL TRANSFER APPLICATION (CTA) No.94 of 2016

PETITIONER:

Smt. Roshni w/o Omprakash, D/o Bhanwara Ram,
Aged 33 years, By caste Nayak, R/o Nagori Gate Police
Chowki Ke Samne, Jodhpur (Raj.)
versus

RESPONDENT:

Omprakash s/o Ramniwas, Aged 24 years, By caste
Nayak, R/o Purana Bus Stand, Delhi Darwaja Ke Bahar,
Nagaur, Tehsil & District Nagaur (Raj.)

Date of Order: 24.10.2016

HON'BLE MR.SANGEET LODHA,J.

Dr.Shailendra Kala, for the Petitioner.
Mr. S.R.Beniwal, for the Respondent.

1. This transfer petition u/s 24 of the Civil Procedure Code, 1908("CPC") has been filed by the petitioner wife seeking transfer of the Matrimonial Case No.109/15, filed by the respondent husband before the Additional District Judge, Nagaur to the Family Court No.1, Jodhpur.

2. The relevant facts are that the petitioner and the respondent entered into marriage on 13.5.14 at Jodhpur. The matrimonial relations between the parties became strained and therefore, the parties started

living separately. The petitioner has filed an application under Section 125 (3) Cr.P.C. seeking maintenance on 7.8.15, which is pending consideration before the Family Court No.1, Jodhpur. Thereafter, the

respondent-husband has filed an application under Section 9 of Hindu Marriage Act, 1955 against the petitioner before the Additional District Judge, Nagaur.

3. Learned counsel appearing for the petitioner submitted that an application preferred by the petitioner is already pending before the Family Court No.1, Jodhpur, where the respondent is required to attend each and every date of hearing. Learned counsel submitted that the petitioner's father is old person and therefore, there is nobody who could accompany the petitioner during the journey from



Jodhpur to Nagaur. It is submitted that the petitioner is not in position to travel all alone. Learned counsel urged that taking into consideration the convenience of the parties, it would be appropriate that the matrimonial matter pending before the Additional District Judge, Nagaur is transferred to the Family Court No.1, Jodhpur.



4. On the other hand, the counsel appearing for the respondent submitted that alleged inconvenience of the petitioner in travelling cannot be a ground for transfer of a matter pending before the court of competent jurisdiction. Learned counsel submitted that the facts pleaded in the transfer petition does not suggest any special feature so as to warrant transfer of the matter pending before the Additional District Judge, Nagaur to the Family Court No.1, Jodhpur.

5. I have considered the submissions of the learned counsel and perused the material on record.

6. It is settled law that each transfer petition is

required to be considered by the court on its own merits. The convenience of the parties is also a relevant consideration in the matrimonial matters.

Further, where the petition is filed by the husband, the

convenience of the wife has to be given weightage.

This stands fortified from the fact that even the legislature in its wisdom realising this aspect of the

matter by way of the Hindu Marriage (Amendment)

Act, 2003 (Act 50 of 2003) has inserted clause(iii a) in

Section 19 of the Act of 1955 in terms that in case the

wife is the petitioner, the petition can be filed where she is residing on the date of presentation.

7. Indisputably, the petitioner is presently residing at Jodhpur. It is not disputed that the respondent is required to attend each and every date of hearing before the Family Court No.1, Jodhpur in the application preferred by the petitioner under Section 125 Cr.P.C.

8. Thus, having regard to the facts and



circumstances noticed above, in considered opinion of this court, for the convenience of the parties and in the interest of justice, it would be appropriate that the matrimonial case filed by the respondent pending before the Additional District Judge, Nagaur is transferred to the Family Court No.1, Jodhpur.



9. Accordingly, the transfer petition is allowed. The Matrimonial Case No.109/15, pending before the Additional District Judge, Nagaur shall stand transferred to the Family Court No.1, Jodhpur. The parties shall appear before the Family Court No.1, Jodhpur on 22.11.16. No order as to costs.

(SANGEET LODHA),J.