

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

TA No.113 of 2011

Date of decision:21.4.2011

Smt. Naveen Malik

...Applicant

Versus

Rajbir Singh Malik

...Respondent

**CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN**

Present: Mr.V.S.Kajla, Advocate,  
for the applicant.  
Mr.V.S.Phougat, Advocate,  
for the respondent.

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**JITENDRA CHAUHAN, J. (Oral)**

This application is filed by the wife/applicant seeking the transfer of the proceedings under Section 13 of the Hindu Marriage Act, 1955 (for short 'the Act') from Bhiwani to Soneapt, where she has been presently residing.

The case of the applicant is that she is a polio afflicted person and has been looking after her two school going children after she was ousted from the matrimonial home. It is further case of the applicant is that an application under Section 125 Cr. P.C. and another petition under Section 12 of the Prevention from Domestic Violence Act, 2005 filed by the applicant are prior in time. In order to harass the applicant, the respondent filed petition under Section 13 of the Hindu Marriage Act, 1955 (for short

`the Act).

I have heard the learned counsel for the parties.

From the perusal of record, it emerges the applicant is a handicapped woman and has been residing at Sonapat with her two children. The petitions filed by the applicant are prior in time to the petition filed by the respondent. The respondent is already appearing before the court proceedings at Sonapat. The distance between two stations is about 90 kms.

In the circumstances, there would be a considerable inconvenience to the wife to defend the petition filed by the respondent at Bhiwani, which is about 180 kms to and fro. It is the divorce petition of the husband and it should be conducted in a manner which will least trouble the wife. The balance of convenience is in favour of the applicant and against the respondent.

It is well settled principle of law that convenience of the wife is to be seen in such like matters as has been held in cases of ***Sumitra Singh Vs. Kumar Sanjay and another, AIR 2002 SC 396, Neelam Kanwar vs Devinder Singh Kanwar, 2001(1) M.L.J. 509 (SC) and Mangla Patil Kale Vs.Sanjeev Kumar, (2003) 10 SCC 280.***

Considering the facts that the petitions filed by the applicant are prior in time; she is saddled with the responsibility of two school going children and primarily the convenience of the wife is to be seen, in my opinion, the present application deserves to be allowed.

In view of the above, the application is allowed. The petition filed by the respondent titled `Rajbir Singh Malik vs. Smt. Naveen Malik, under Section 13 of the Act is withdrawn from the court of learned District

Judge/Family Court, Bhiwani and is transferred to the court of competent jurisdiction at Sonapat. File shall be sent by the trial Court at Bhiwani to the learned District Judge, Sonapat, within two weeks from the date of receipt of a certified copy of this order. The learned District Judge, Sonapat, will either himself dispose it of himself or entrust it to any other Court of competent jurisdiction.

Parties are directed to appear before the District Judge, Sonapat, on 20.5.2011.

**21.4.2011**  
**mk**

**(JITENDRA CHAUHAN)**  
**JUDGE**