

HIGH COURT OF JAMMU AND KASHMIR AT JAMMU

CTA no. 1/2012
CMA no. 1/2012

Date of order: 30.11.2012

Satinder Kour and Ors v. Daljeet Singh

Coram:

Hon'ble Mr. Justice M. M. Kumar, Chief Justice

Appearing counsel:

For the Petitioner(s) Mr. P. S. Pawar, Advocate.

For the respondent(s) None.

i) Whether to be reported in Press, Journal/Media : Yes/No
ii/ Whether to be reported in Digest/ Journal : Yes/No

M. M. Kumar, CJ

1. This is an application with a prayer for transferring the petition filed by the respondent-husband under Section 9 of the Hindu Marriage Act (for brevity ' the Act') titled as Baljeet Singh

v. Satinder Kour and ors pending in the Court of Additional District Judge, Srinagar to any Court of competent jurisdiction at Jammu. The petition has been preferred by the wife and her father, mother and brother.

2. According to the averments made by the petitioners, the petitioner no.1- wife was thrown out of the matrimonial home on account of demand of dowry on the part of the respondent-husband and his parents. An FIR no. 24/2011 dated 21.11.2011 has been lodged by petitioner no.1 with Police Station, Women

Cell, Jammu under Sections 498-A, 506, 323, 406 and 109 RPC (Annexure C). The averments made in para no. 5 of the petition further suggest that challan is likely to be produced as the investigation is at the verge of completion. The petitioner no.1 has also filed a petition under Section 488 Cr.P.C for payment of maintenance which is also pending in the Court of Special Electricity Magistrate, Jammu. A copy of the summons issued by the said Court has been placed as Annexure C1. It has been alleged that a petition under Section 9 of the Act could have been filed only against the wife-petitioner no.1 and there was no reason to drag in the father, mother and brother of petitioner no.1- wife.

3. I have heard Mr. Pawar, learned counsel for the petitioners, who has submitted that petition under Section 9 of the Act is a counter blast to the FIR lodged by the petitioner on 21.11.2011 as the petition under Section 9 was filed subsequently on 25.11.2011. According to the learned counsel even otherwise the litigation is pending in the Courts at Jammu and the petitioner no.1, the deserted wife, is compelled to live with her parents who are at Jammu.

4. The petitioner no.1 is without any means of livelihood and appears to be dependent on her parents. It would also be convenient for the respondent-husband to prosecute his suit for

restitution of conjugal rights under Section 9 of the Act at Jammu because he is already defending litigation initiated by his wife at Jammu. Therefore, the petitioner under Section 9 of the Act, titled as Baljeet Singh v. Satinder Kour and ors, pending in the Court of Additional District Judge, Srinagar, is ordered to be transferred to the Court of Additional District Judge (Matrimonial Cases) Jammu. The record of the case which has been received shall be sent to the transferee Court along with a copy of this order. It is further directed that a copy of this order be sent to the court of Additional District Judge, Srinagar along with a photocopy of the record.

5. Parties through their counsel are directed to appear before the Additional District Judge (Matrimonial Cases) Jammu on 26.12.2012.

(M. M. Kumar)
Chief Justice

JAAMU:
30.11.2012
Anil Raina, Secy.