

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

**Transfer Application No.213 of 2014
Date of decision : 09.04.2015**

Mrs. Achla Khanna ...Petitioner
versus

Rohit Khanna ...Respondent

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Parteek Mahajan, Advocate for the petitioner.

Mr. Vinay Puri, Advocate for the respondent.

RITU BAHRI, J (Oral)

This is a transfer application under Section 24 CPC for transfer of application dated 29.02.2012 (Annexure P-3) for setting aside ex-parte decree dated 15.12.2010 (Annexure P-2) passed in Hindu Marriage Act Case No.30 of 2009 titled as “Rohit Khanna Vs. Mrs. Achla” passed by the Additional Civil Judge (SD), Jalandhar, pending in Court of Additional Civil Judge (SD) to any Court of competent jurisdiction at Amritsar.

Counsel for the petitioner has referred to a decision made by a Coordinate Bench of this Court on 16.09.2014 in civil revision No.6517 of 2012 titled as “Achla Khanna Vs. Rohit Khanna”, which was against the order dated 10.10.2012 whereby the Additional District Judge, Jalandhar had decided that the Court at Jalandhar had the jurisdiction to try the divorce petition. While allowing the revision

petition it was held that mere fact that the petitioner had a permanent address at Jalandhar or that her parents were residing at Jalandhar was no ground to file divorce petition at Jalandhar. The parental house of the parties where they were residing together would not be ablaze which would attract the jurisdiction under Section 19 sub clause (iii) of the Act. Reference was made to the judgment **AIR 1992 MP 260 Pushpa Datt Mishra Vs. Archana Mishra** and Hon'ble Supreme Court judgment in the case of **Smt. Jeewanti Pandey Vs. Kishan Chandra Pandey AIR 1982 SC 3**. In this case the party belonged to village Almorah and marriage was performed at Delhi. It was held that the Court at District Almora had no jurisdiction to try the divorce petition under Section 12 of the Hindu Marriage Act.

In the facts of the present case an ex-parte decree dated 15.12.2010 (Annexure P-2) was passed in Hindu Marriage Act Case No.30 of 2009 under Section 9 of the Hindu Marriage Act. The petitioner had filed the application on 29.02.2012 (Annexure P-3) for setting aside the ex-parte decree. This petition is now pending before the Additional Civil Judge (SD), Jalandhar.

Keeping in view the above said judgment, this petition is allowed and a direction is given that the application dated 29.02.2012 (Annexure P-3) be transferred to the Courts at Amrtisar.

09.04.2015
Vinay

(RITU BAHRI)
JUDGE