

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

**TA No. 107 of 2016 (O&M)
Date of decision: 13.5.2016**

Parmod

.. Applicant

Vs.

Rakesh Laura

... Respondent

CORAM: HON'BLE MR.JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Divay Sarup, Advocate
for the applicant.

None for the respondent.

RAMESHWAR SINGH MALIK, J. (Oral)

Applicant-wife, by way of instant transfer application under Section 24 of the Code of Civil Procedure, 1908, seeks transfer of a divorce petition under Section 13 of the Hindu Marriage Act, 1955, ('HM Act' for short), filed by the respondent-husband, from Rohtak to Hisar

Notice of motion was issued.

As per office report, service was complete on 14.3.2016. However, when none appeared on behalf of the respondent on 16.3.2016, one more opportunity was granted adjourning the case for today. Similar is the position today. Case has been called twice over

but nobody has come present on behalf of the respondent to contest the instant transfer application.

Heard learned counsel for the applicant.

It has gone undisputed before this Court that applicant-wife is staying with her widowed mother at Hisar. Neither the applicant-wife is having any regular source of income, nor the respondent-husband is paying any maintenance amount to her on regular basis. She is living with her widowed mother for the last about three years. Other litigations, at the instance of the applicant-wife, is also pending at Hisar. Distance between Hisar and Rohtak is more than 100 Kilometers.

In view of the abovesaid undisputed fact situation obtaining in the present case, this Court is of the considered opinion that instant transfer application deserves to be allowed. It is so said because financial status of the wife, her source of income, conduct of the respondent-husband in not paying the maintenance amount and distance between two places, besides her convenience, are some of the relevant considerations for deciding the transfer application like the present one.

The abovesaid view taken by this Court also finds support from the earlier order dated 16.03.2016 passed by this Court in TA No.945 of 2015 (Sushma and others Vs. Kapil @ Sahil Bansal), which, in turn, was based on the judgments of the Hon'ble Supreme Court, as well as different High Courts, including this Court.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this

Court is of the considered view that instant transfer application deserves to be accepted and the same is hereby allowed. Petition under Section 13 of the HM Act filed by the respondent-husband titled as Rakesh Vs. Parmod is ordered to be transferred from Rohtak to Hisar.

Accordingly, the learned District Judge, Rohtak, is directed to send complete record of the abovesaid petition to the learned District Judge, Hisar, at an early date but in any case within a period of one month from the date of receipt of certified copy of this order.

The learned District Judge, Hisar, is also directed either to decide the case himself or assign it to the learned court of competent jurisdiction, for an early decision, in accordance with law.

With the abovesaid observations made and directions issued, present transfer application stands disposed of, however, with no order as to costs.

**(RAMESHWAR SINGH MALIK)
JUDGE**

13.5.2016
AK Sharma