

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

TA No. 173 of 2016 (O&M)

Date of decision: 26.5.2016

Kavita Rani

.. Applicant

Vs.

Vijay Rathee

... Respondent

CORAM: HON'BLE MR.JUSTICE RAMESHWAR SINGH MALIK

Present: Nemo.

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 (ia) (ib) of the Hindu Marriage Act, 1955 ('HM Act' for short), filed by the respondent-husband, from Gurgaon to Rohtak.

Notice of motion was issued and in the meantime, further proceedings before the learned trial court at Gurgaon were stayed.

Learned counsel for the respondent appeared on the last date of hearing and sought time to file reply, if any, which was granted to him. However, neither any reply has been filed nor anybody has come present on behalf of either of the parties.

As per the uncontroverted averments taken by the applicant in the present transfer application, it has gone undisputed before this Court

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that there is a child out of the wedlock. Applicant-wife, alongwith her child, is staying with her parents at Rohtak. Applicant wife is serving in a Government department. Distance between Rohtak and Gurgaon is more than 60 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 responsibility of the wife for bringing up the children 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 (ia) (ib) of the HM Act filed by the respondent-husband titled as Vijay Rathee Vs. Kavita, is ordered to be transferred from Gurgaon to Rohtak.

Accordingly, the learned District Judge, Gurgaon, is directed to send complete record of the abovesaid petition to the learned District Judge, Rohtak, 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, Rohtak, 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**

26.5.2016
AK Sharma