

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

TA No.193 of 2016

Date of decision: 09.05.2016

Swati Gupta

... Applicant

Vs.

Nitin Sethi

... Respondent

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. S.S. Pathania, Advocate
for the applicant.

Mr. Rajat Gautam, Advocate
for the respondent.

1. Whether reporters of local papers may be allowed to see the judgment? YES/NO
2. To be referred to the reporters or not? YES/NO
3. Whether the judgment should be reported in the digest? YES/NO

RAMESHWAR SINGH MALIK, J. (ORAL)

Applicant-wife, by way of instant application under Sections 22, 23 and 24 of the Code of Civil Procedure, seeks transfer of a divorce petition filed by the respondent-husband from Panchkula to Ludhiana.

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

Heard learned counsel for the parties.

It has gone undisputed before this Court that there is a child out of this wedlock. Applicant-wife, along with her minor child, is staying with her parents at Ludhiana. Neither the applicant-wife is having any regular source of income nor the respondent-husband is paying any amount of

maintenance either for the applicant-wife or for the child. Distance between Panchkula and Ludhiana 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 responsibility of the wife for bringing up the children, her financial status, her source of income, conduct of the husband and distance between two places, besides the convenience of the wife, are some of the relevant considerations for deciding the transfer applications, like the present one.

The abovesaid view taken by this Court also finds support from the 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. Divorce petition under Section 13 of the Hindu Marriage Act, 1955 filed by the respondent-husband, is ordered to be transferred from Panchkula to Ludhiana.

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

Learned District Judge, Ludhiana is also directed either to

decide the case himself or assign it to the learned Court of competent jurisdiction for its early decision, in accordance with law.

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

[RAMESHWAR SINGH MALIK]
JUDGE

09.05.2016
vishnu