

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

**TA No. 23 of 2016 (O&M)
Date of decision: 13.5.2016**

Kusum @ Sunaina

.. Applicant

Vs.

Arun Kumar

... Respondent

CORAM: HON'BLE MR.JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Rajesh Bansal, Advocate
for the applicant.

Mr. Vikramjeet Singh, Advocate for
Mr. Amanpal, Advocate
for the respondent.

RAMESHWAR SINGH MALIK, J. (Oral)

CM No. 10081-CII-2016

Application is allowed, as prayed for.

CM stands disposed of.

TA No. 23 of 2016

Applicant-wife, by way of instant transfer application under Section 24 read with Section 151 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 Panchkula.

Notice of motion was issued.

Heard learned counsel for the parties.

It has gone undisputed before this Court that there is a child out of this wedlock. Applicant-wife, alongwith her minor child, is staying with her parents at Panchkula. Neither the applicant-wife is having any regular source of income, nor the respondent-husband is paying any maintenance amount either for the applicant-wife or for the child. Other litigations, at the instance of the applicant-wife, is also pending at Panchkula. Distance between Rohtak and Panchkula is more than 200 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, her responsibility for bringing up the children, conduct of the respondent-husband in not paying the maintenance amount, 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 bearing HMA Case No. 711/2015 (Arun Kumar Vs. Kusum @ Sunaina), is ordered to be transferred from Rohtak to Panchkula.

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