

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

TA No. 240 of 2016 (O&M)

Date of decision: 25.5.2016

Prabhjot Kaur

.. Applicant

Vs.

Gurdeep Singh

... Respondent

CORAM: HON'BLE MR.JUSTICE RAMESHWAR SINGH MALIK

Present: Ms. Mandeep Kaur Kahlon, Advocate
for the applicant.

Mr. Kiran Kumar, Advocate
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 Jalandhar to Tarn Taran.

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

Reply on behalf of the respondent, filed in the Court today, is taken on record and copy thereof has been supplied to the learned counsel for the applicant.

Heard learned counsel for the parties.

It has gone undisputed before this Court that there is a child out of the wedlock. Applicant-wife, alongwith her minor child, is living with her parents at her ancestral village in District Tarn Taran. Neither the applicant-wife is having any regular source of income, nor the respondent-husband is paying any maintenance amount either for the applicant or for the minor child. Distance between Jalandhar and Tarn Taran is about 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 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 Gurdeep Singh Vs. Prabhjot Kaur is ordered to be transferred from Jalandhar to Tarn Taran.

Accordingly, the learned District Judge, Jalandhar, is directed to

send complete record of the abovesaid petition to the learned District Judge, Tarn Taran, 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, Tarn Taran, 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**

25.5.2016
AK Sharma