

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

**TA No. 37 of 2016 (O&M)
Date of decision: 19.5.2016**

Anita

.. Applicant

Vs.

Jagjit

... Respondent

CORAM: HON'BLE MR.JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Atul Yadav, Advocate
for the applicant.

Mr. Karan Singh, Advocate
for the respondent.

RAMESHWAR SINGH MALIK, J. (Oral)

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 Jhajjar to Gurgaon.

Notice of motion was issued.

Heard learned counsel for the parties.

It has gone undisputed before this Court that there are two children out of the wedlock. Applicant-wife, alongwith her minor children, is living with her parents at Gurgaon. Neither the applicant-

wife is having any regular source of income, nor the respondent-husband is paying any maintenance amount either for the wife or for the minor children. Distance between Jhajjar 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, financial status of the wife, 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 Jagjit Vs. Anita, is ordered to be transferred from Jhajjar to Gurgaon.

Accordingly, the learned District Judge, Jhajjar, is directed

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

19.5.2016
AK Sharma