

TA No.473 of 2016

Date of Decision: October 25, 2016

Sangeet Chaudhary

.....Petitioner

Versus

Akhil Chaudhary

....Respondent

CORAM:- HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. K.S. Chaudhary, Advocate
for the petitioner.

Mr. Pradeep Virk, Advocate
for the respondent.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Prayer in the application is for transfer of the petition under Section 13 of the Hindu Marriage Act, 1955 (for short the 'Act'), for dissolution of marriage by decree of divorce from Sonapat to Jind, preferred by the respondent-husband against the applicant.

It is the contention of learned counsel for the applicant that the post held by her is of an Assistant Manager in the Punjab National Bank, which is transferable. Earlier, she was posted at Delhi but now she has been transferred to Rohtak. A normal tenure of a posting is three years and therefore, after every 3 years she is likely to be transferred in routine, apart from the administrative reasons for which she cannot do anything and, therefore, every time it would be very difficult for her to go to Sonapat, where the case is pending. It has been asserted that her parents are residing in Jind and petition under Section 13 of the Act, be transferred to a competent Court at Jind, where she would at least have a place to reside at the time when the case is taken up for hearing. Assertion has also been

made by the counsel that till date no complaint has been filed against the respondent-husband by the applicant. Prayer, has thus, been made for transfer of the petition under Section 13 of the Act, from Sonapat to Jind.

On the other hand, counsel for the respondent-husband, asserts that the place of posting of the applicant is Rohtak which is quite near to Sonapat and, therefore, it would be convenient for her to attend the proceedings in the Court at Sonapat. He, therefore, contends that since she is posted at Rohtak, the respondent-husband does not have any objection, in case, the proceedings are transferred to Rohtak itself, the place of her posting. He very fairly states that the assertion of the counsel for the applicant, that no complaint has been filed against the respondent-husband, is correct.

I have considered the submissions made by counsel for the parties and with their able assistance have gone through the pleadings and the averments made therein.

It is an admitted fact that the applicant is holding a transferable post and if the divorce petition is transferred to Rohtak and tomorrow she is transferred from there also, the situation would come to the same as it is today. It is undisputed that no complaint has been filed by the applicant against the respondent-husband and, therefore, there can be no apprehension that she would harass or torture the respondent-husband in any manner. Merely, because she is seeking transfer of the petition under Section 13 of the Act, for a decree of divorce preferred by the respondent-husband from Sonapat to Jind which is her parental house, would not be a ground for denying the same specially when she is holding a transferable post and would not have any permanent abode.

In view of the peculiar facts and circumstances of the present case, the present transfer application is allowed. Petition under Section 13 of the Act, for dissolution of marriage by way of a decree of divorce preferred by the respondent-husband (*Akhil Chaudhary Vs. Sangeet Chaudhary D/o Satbir Singh*), which is pending before the Family Court at Sonapat, is transferred to the Family Court at Jind.

The District and Sessions Judge, Sonapat, is directed to forthwith transfer the complete file of the petition under Section 13 of the Act, referred to above to the District Judge, Jind within a period of four weeks from today who shall assign it to the Family Court at Jind.

Parties to appear before the Family Court at Jind on 07.12.2016.

Copy of this order be sent forthwith to the District and Sessions Judge, Sonapat and Jind, for information and compliance.

(AUGUSTINE GEORGE MASIH)
JUDGE

October 25, 2016

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No.