

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

TA No. 175 of 2015

Date of decision: 4.4.2016

Inder Pal

.. Applicant

Vs.

Kulwant Kaur

... Respondent

CORAM: HON'BLE MR.JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Nitesh Singhi, Advocate
for the applicant.

Mr. Vishal Chauhan, Advocate
for the respondent.

RAMESHWAR SINGH MALIK, J. (Oral)

Applicant-husband, 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-wife, from Kurukshetra to either Chandigarh or Mohali.

Notice of motion was issued.

Heard learned counsel for the parties.

Learned counsel for the applicant, at the very outset, fairly states that applicant-husband is ready to bear the expenses for the witnesses of the respondent-wife who shall come from Kurukshetra to Chandigarh for deposing in the divorce petition.

However, this fair proposal put by the learned counsel for the application is not acceptable to the learned counsel for the respondent-wife.

It has gone undisputed before this Court that respondent-wife is staying at Chandigarh. A child born out of the wedlock is staying with the respondent-wife and is studying at Chandigarh. A civil suit filed by the respondent-wife is going on before the learned court of competent jurisdiction at Dera Bassi. Another litigation initiated by the applicant-husband under Section 25 of the Guardians and Wards Act, seeking custody of the child is also pending before the learned court of competent jurisdiction at Chandigarh.

In view of the abovesaid fact situation of the present case, this Court is of the considered opinion that instant transfer application deserves to be allowed. It is so said because it is not convenience of the witnesses which is of paramount importance, but it is the convenience of wife which is to be considered by the Court, while deciding the transfer application like the present one. In the present case, the respondent-wife is staying at Chandigarh. As noticed above, another litigation at her instance is pending at Dera Bassi, near Chandigarh. Further, it has been stated by learned counsel for the applicant that applicant-husband shall bear the expenses for the witnesses of the respondent-wife who shall come from Kurukshetra to Chandigarh for deposing before the court.

No other argument was raised.

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 application deserves to be accepted and the same is hereby allowed. Divorce petition filed by the respondent-husband under Section 13 of HM Act is ordered to be transferred from Kurukshetra to Chandigarh.

Accordingly, the learned District Judge, Kurukshetra, is directed to send complete record of the petition under Section 13 of the HM Act filed by the respondent-wife titled as Kulwant Kaur Vs. Inder Pal to the learned District Judge, Chandigarh, 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, Chandigarh, is also directed either to decide the case himself or assign it to the court of competent jurisdiction, for an early decision, in accordance with law.

However, it is made clear that applicant-husband shall bear the expenses for witnesses of the respondent-wife who shall come from Kurukshetra to Chandigarh for deposing before the learned court. The expenses shall be paid by the applicant-husband, as assessed by the learned trial court at the appropriate stage, by passing an appropriate order.

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**

4.4.2016
AK Sharma