

**HIGH COURT FOR THE STATES OF PUNJAB & HARYANA AT
CHANDIGARH**

TA-228-2015
Date of decision: 29.3.2016

Smt. Neeta Kabotra

...Applicant

Versus

Lt.Col.Anil Kabotra (Retd.)

...Respondent

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

1. To be referred to the Reporters or not ?
2. Whether the judgment should be reported in the Digest ?

Present: Mr.Vishal Aggarwal, Advocate for the petitioner.
Respondent in person.

RAMESHWAR SINGH MALIK, J. (Oral)

Applicant-wife, by way of instant application under Section 24 of the Code of Civil Procedure, seeks transfer of divorce petition bearing HMA No.77 of 2015 titled as 'Lt.Col.Anil Kabotra (Retd.) Vs. Neeta Kabotra' filed by the respondent-husband under Section 13 of the Hindu Marriage Act, 1955 from Chandigarh to Pathankot.

Notice of motion was issued and further proceedings before the learned trial Court were stayed.

In response to the notice of motion, respondent-husband has appeared in person and filed his detailed reply to the transfer application. Thereafter, both the parties have placed on record numerous additional documents by way of different applications which have been allowed.

Parties heard at length.

During the course of hearing, respondent-husband has very fairly conceded that since three other litigations, out of which one at the instance of the applicant-wife filed under Section 125 Cr.P.C. and two litigations at his instance in the form of a criminal revision petition and a civil appeal are already pending between the parties at Pathankot itself, divorce petition filed by him at Chandigarh also deserves to be transferred to Pathankot, as a matter of principle.

This fair statement made by the respondent-husband leaves no manner of doubt in the mind of this Court that after transfer of the divorce petition from Chandigarh to Pathankot, the same deserves to be heard by the same Presiding Officer of Family Court who is already hearing the case under Section 125 Cr.P.C. Further, the respondent-husband has been found well justified in making another prayer that his criminal revision petition as well as the civil appeal be also directed to be heard by the same court so as to enable him to pursue all the litigations at Pathankot without any difficulty. The twin prayer made by the respondent has not been opposed by the learned counsel for the applicant-wife as well.

In view of the gracious attitude shown by the respondent-husband, while making the above-said statement before this Court, the instant transfer application is allowed.

Accordingly, learned District Judge, Chandigarh, is directed to send the complete record of the above-said divorce petition to the learned District Judge, Pathankot at an early date and in any case within a period of one month from the date of receipt of a certified copy of this order.

Learned District Judge, Pathankot, is directed to assign the divorce petition to the same Family Court who is already hearing a petition under Section 125 Cr.P.C. filed by the applicant-wife. The learned Family Court, who is hearing the petition under Section 125 Cr.P.C., is directed to put the same date of hearing in both the matters, i.e. in the petition under Section 125 Cr.P.C. as well as in the divorce petition, because both the matters are between the same parties. The learned Family Court shall also make an endeavour to decide both the matters at an early date, in accordance with law.

Similarly, criminal revision petition filed by the respondent-husband titled as 'Anil Kabotra v. Raj Kumar Khosla and others' pending for 6.4.2016 in the court of Sh.Rajiv Kalra, learned Additional District & Sessions Judge and also the civil appeal titled as 'Anil Kabotra v. Neeta Kabotra' pending for 19.4.2016 in the court of Ms.G.K.Duggal, learned Additional District Judge, Pathankot be assigned to one out of the above-said two courts. The learned District Judge, Pathankot is also directed to pass an appropriate order in this regard at an early date so that both these cases between the same parties are heard and decided at an early date, in accordance with law.

The above-said direction has been issued keeping in view the golden rule that justice is not only to be done but it should also seem to have been done. None of the parties to the litigation should be put to any unwarranted difficult situation, particularly when hearing of two cases by the same Presiding Officer is very much permissible in law. Further, it will facilitate the respondent-husband who has been found to be a responsible

senior citizen to pursue the above-said litigation while going from Chandigarh to Pathankot, without facing any undue harassment.

With the above-said observations made and directions issued, the present petition stands disposed of, however, with no order as to costs.

29.3.2016
mks

(RAMESHWAR SINGH MALIK)
JUDGE