

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

**TA No. 280 of 2015 (O&M)
Date of decision: 22.4.2016**

Kanwaljeet Kaur

.. Applicant

Vs.

Jaspal Singh

... Respondent

CORAM: HON'BLE MR.JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Vivek Salathia, Advocate
for the applicant.

Mr. Rajesh Arora, 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 Gurgaon to Amritsar.

Notice of motion was issued.

Learned counsel for the respondent appeared on 3.8.2015. However, no reply has been filed so far.

Heard learned counsel for the parties.

It has gone undisputed before this Court that there are two children out of this wedlock and both are staying with the respondent-husband at Gurgaon. Applicant-wife is staying with her parents at Amritsar. Applicant-wife is not having any regular source of income. The respondent husband is not paying any amount of maintenance to the applicant-wife. Distance between Gurgaon and Amritsar is more than 500 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 financial status of the wife, her source of income 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.

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 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 bearing HMA/0000099/2015 (Jaspal Singh VS. Kanwaljeet Kaur) is

ordered to be transferred from Gurgaon to Amritsar.

Accordingly, the learned District Judge, Gurgaon, is directed to send complete record of the abovesaid petition to the learned District Judge, Amritsar, 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, Amritsar, 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. However, it is made clear that both the parties shall be at liberty to settle the matter amicably, if they so desire.

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**

22.4.2016
AK Sharma