

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

TA No.477 of 2015

Date of decision: 29.03.2016

Asha Mittal

... Applicant

Vs.

Parveen Kumar

... Respondent

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. R.K. Verma, Advocate
for the applicant.

Mr. R.K. Saini, Advocate
for the respondent.

1. Whether reporters of local papers may be allowed to see the judgment? YES/NO
2. To be referred to the reporters or not? YES/NO
3. Whether the judgment should be reported in the digest? YES/NO

RAMESHWAR SINGH MALIK, J. (ORAL)

Applicant-wife, by way of instant application under Section 24 read with Section 151 of the Code of Civil Procedure, seeks transfer of a divorce petition filed by the respondent-husband under Section 13 of the Hindu Marriage Act, 1955 (for short 'HM Act') from Hisar to Chandigarh.

Notice of motion was issued and further proceedings were stayed.

Heard learned counsel for the parties.

It has gone undisputed before this Court that there are two children out of this wedlock. One child is living with the applicant-wife and

another is living with respondent-husband. Applicant-wife is staying with her parents at Village Naya Gaon near Chandigarh. She does not have any source of income. Distance between Hisar and Chandigarh is more than 200 kilometers.

In view of the abovesaid undisputed fact situation obtaining in the present case, instant application deserves to be allowed, so as to avoid any unwarranted harassment and undue difficulty to the applicant-wife in pursuing the litigation imposed on her by the respondent-husband. Financial status of the wife and distance between two places are some of the relevant considerations for deciding the transfer applications, 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, 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 application deserves to be accepted and the same is hereby allowed. Divorce petition filed by the respondent-husband under Section 13 of HM Act at Hisar is ordered to be transferred to Chandigarh.

Accordingly, learned District Judge, Hisar is directed to send the complete record of the abovesaid divorce petition to the learned District Judge, Chandigarh at an early date and in any case within a period of one month from the date of receipt of certified copy of this order. Learned District Judge, Chandigarh is also directed either to decide the case himself

or assign it to the learned Court of competent jurisdiction for its early decision, in accordance with law.

With the abovesaid observations made and directions issued, present application stands disposed of.

29.03.2016

vishnu

[RAMESHWAR SINGH MALIK]
JUDGE