

In the High Court of Punjab and Haryana at Chandigarh

**T.A. No. 529 of 2015 (O&M)
Date of Decision: February 27, 2016**

Sarika

... Applicant

Versus

Sudhir Malik

... Respondent

**CORAM: HON'BLE MR. JUSTICE PARAMJEET SINGH
DHALIWAL**

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

Mr. Sudhir Malik, respondent-in-person.

Paramjeet Singh Dhaliwal, J. (Oral)

Instant application has been filed under Section 24 of the Code of Civil Procedure for transfer of petition, under Section 13 of the Hindu Marriage Act (hereinafter referred to as the “Act”), filed by the respondent titled as “Sudhir Malik vs. Sarika”, pending in the Court of learned District Judge, Rohtak to the court of competent jurisdiction at Hisar.

Learned counsel for the applicant contends that respondent-husband filed a petition under Section 13 of the Act for dissolution of marriage, which is pending before the learned District Judge, Rohtak. The applicant has one minor female child. Learned counsel further contends that the applicant is residing at her parental house situated in District Hisar and it is not convenient for her to travel from Hisar to Rohtak to defend proceedings instituted by the husband. Petition under Section 12 of the Protection of Women from Domestic Violence Act, filed by the applicant, is

pending against the respondent at Hisar. Learned counsel for the applicant relied upon a judgment of Hon'ble Supreme Court in **Deepti Bhandari vs. Nitin Bhandari and another, 2012 (1) R.C.R. (Civil) 506** and contended that it would be easier for the respondent-husband to attend the proceedings in Hisar, than for the applicant to attend the same in Rohtak. Therefore, petition under Section 13 of the Act may be transferred to Hisar.

Per contra, respondent vehemently opposes the contentions raised by learned counsel for the applicant. Respondent contends that father of the applicant is a senior advocate and member of the District Bar Association, Hisar. Respondent further contends that if petition under Section 13 of the Act is transferred to Hisar, then there is a possibility of influence of the father of the applicant on the proceedings.

I have considered the contentions raised by learned counsel for the applicant, as well as, respondent and perused the record.

So far as the contention of the respondent that there is apprehension of influence of father of the applicant, being senior advocate is concerned, this Court in **D.A.V. College, Hoshiarpur Society (Regd.) and another vs. D.M.Sharma and others, 2005(1) R.C.R. (Civil) 71**, has held as under:-

“6. Having heard learned counsel for the parties and perusing the record and judgments of this Court. I am of the considered view that this petition is liable to be dismissed because the principal argument raised by the learned counsel for the petitioner is untenable namely that if the litigation has been initiated by an Advocate or against the Advocate that alone would be a sufficient ground for seeking transfer of proceedings Under Section 24 of the Code. This argument if accepted would have pernicious and deleterious effect on the

administration of justice. In a given case there may be the possibility of establishing the relationship of a particular Advocate with the Presiding Officer and the same may constitute a ground for transfer but merely because the litigant is a practicing Advocate without anything more would not constitute a valid ground for transfer of the case. If such a principle is accepted; then all cases concerning members of the legal fraternity have to be contested at a place other than the one where the member of the Bar is practicing. Such a general ostracism of legal fraternity is impermissible. The judgments of this Court which has been cited by the learned counsel do not lay down any Rule of law warranting acceptance of the prayer made.”

In view of the submissions made by learned counsel for the applicant, the circumstances mentioned in the application, pendency of other proceedings between the parties at Hisar and respondent has already been appeared at Hisar for almost two years and no complaint against the father of the applicant has been placed on record and keeping in view the decision of Hon'ble Supreme Court in Deepti Bhandari (supra), this Court is of the view that it would be in the interest of the respondent as well that all proceedings are tried at one place as he will not be required to appear at different places on different dates. Accordingly, petition under Section 13 of the Act filed by the respondent titled “Sudhir Malik vs. Sarika”, pending in the Court of learned District Judge, Rohtak is withdrawn and ordered to be transferred to learned District Judge, Hisar, who may assign the same to the Court of competent jurisdiction there. Learned District Judge, Rohtak shall ensure that entire record of the case is sent to learned District Judge, Hisar.

Parties are directed to appear before the Court of learned

District Judge, Hisar on 21.03.2016. Parties will be at liberty to make a

request to the concerned courts for fixing both the afore-mentioned cases on one date. If such a request is made, the Courts shall make an endeavour to fix same date in both the aforementioned cases.

Disposed of.

February 27, 2016
vkd

[Paramjeet Singh Dhaliwal]
Judge