

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

TA No.716 of 2015

Date of decision: 29.03.2016

Seema

... Applicant

Vs.

Narender Kumar

... Respondent

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Sandeep Singla, Advocate
for the applicant.

None 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 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 Faridabad to Rohtak.

Notice of motion was issued vide order dated 01.10.2015 for 25.01.2016. As per office report dated 21.01.2016, service was complete. However, none appeared on behalf of the respondent-husband and in the interest of justice, case was adjourned to 02.03.2016. Again, none appeared on behalf of the respondent on 02.03.2016 and the case was adjourned for today. Similar is the position today. Neither anybody has come present nor

any request for pass over has been made on behalf of respondent-husband.

Heard learned counsel for the applicant.

It has gone undisputed before this Court that there is one child out of this wedlock, who is staying with the applicant. Applicant is serving in Education Department and is posted at Rohtak, whereas the respondent-husband is doing some private job at Faridabad. Distance between Faridabad and Rohtak is about 100 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 Faridabad is ordered to be transferred to Rohtak.

Accordingly, learned District Judge, Faridabad is directed to

send the complete record of the abovesaid divorce petition to the learned District Judge, Rohtak 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, Rohtak 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