

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

**TA No. 765 of 2015 (O&M)  
Date of decision: 23.4.2016**

Priya

.. Applicant

Vs.

Kapil Dev

... Respondent

**CORAM: HON'BLE MR.JUSTICE RAMESHWAR SINGH MALIK**

Present: Mr. Vikas P. Singh, Advocate  
for the applicant.

Mr. Sanjay Vashisht, Advocate  
for the respondent.

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**RAMESHWAR SINGH MALIK, J. (Oral)**

**CM No. 8205-CII-2016**

Applicant-respondent seeks permission to place on  
record reply.

Application is allowed, as prayed for.

CM stands disposed of.

**TA No. 765 of 2015**

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

Rewari to Bhiwani.

Notice of motion was issued and interim order was passed.

Heard learned counsel for the parties.

It has gone undisputed before this Court that applicant-wife is living with her parents at her ancestral village in District Bhiwani. Applicant-wife is not having any regular source of income. Respondent-husband is not paying any amount of maintenance to the applicant-wife. The respondent-husband is serving in a bank at Kolkata. Distance between Rewari and Bhiwani is more than 80 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.

To be fair to the learned counsel for the respondent, his contentions are to be noted to be rejected only. Learned counsel for the respondent submits that applicant-wife has filed very many

unwarranted litigations against the respondent and his family members at Charkhi Dadri. Transfer is not to be ordered at the whims and fancies of the applicant-wife. He further submits that in the present case, transfer of a petition from Rewari to Bhiwani would cause great difficulty to the respondent-husband because he has to come from Kokata to attend the court proceedings. However, despite making his best efforts, learned counsel for the respondent could not substantiate any of his abovesaid arguments.

It would hardly matter for the respondent-husband to come either to Rewari or Bhiwani because he has to come from Kolkata. So far as other litigations pending between the parties at Charkhi Dadri, are concerned, learned counsel for the respondent fairly stated that one litigation has been filed by the respondent also. Under these circumstances, it can be safely concluded that ends of justice requires transfer of the divorce petition filed by the respondent from Rewari to Bhiwani. The transfer petition is not being ordered at the whims and fancies of the applicant-wife but justice demands the said transfer.

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 is ordered to be transferred from Rewari to Bhiwani.

Accordingly, the learned District Judge, Rewari, is directed

to send complete record of the abovesaid petition to the learned District Judge, Bhiwani, 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, Bhiwani, 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. Parties are directed to appear before the learned District Judge, Bhiwani on 26.5.2016.

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**

23.4.2016  
*AK Sharma*