

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

**TA No. 785 of 2015 (O&M)
Date of decision: 3.5.2016**

Laxmi

.. Applicant

Vs.

Amiteshwar Saili

... Respondent

CORAM: HON'BLE MR.JUSTICE RAMESHWAR SINGH MALIK

Present: Nemo.

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 Pathankot to Ludhiana.

Notice of motion was issued and interim order was passed.

Learned counsel for the respondent appeared on 10.12.2015 and on his request, case was adjourned to 27.2.2016. However, thereafter, on 27.2.2016, 9.3.2016 and 15.3.2016, neither learned counsel for the respondent appeared, nor any reply has been

filed. Similar is the position today. None has come present on behalf of either of the parties.

On the basis of uncontroverted averments taken in the instant transfer application, it has gone undisputed before this Court that there is a child out of the wedlock. Applicant-wife, alongwith her child, is staying with her parents at Ludhiana. Neither the applicant-wife is having any regular source of income, nor the respondent-husband is paying any amount of maintenance either for the applicant-wife or for the minor child. Distance between Pathankot and Luhdiana is more than 150 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, her responsibility for bringing up the children, conduct of the parties 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.

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 titled as Amiteshwar Saili Vs. Laxmi is ordered to be transferred from Pathankot to Ludhiana.

Accordingly, the learned District Judge, Pathankot, is directed to send complete record of the abovesaid petition to the learned District Judge, Ludhiana, 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, Ludhiana, 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.

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**

3.5.2016
AK Sharma