

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

TA No. 888 of 2015 (O&M)

Date of decision: 23.5.2016

Kiran

.. Applicant

Vs.

Mohan Singh

... Respondent

CORAM: HON'BLE MR.JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Gagan Oberoi, Advocate
for the applicant.

None for the respondent.

RAMESHWAR SINGH MALIK, J. (Oral)

Applicant-wife, by way of instant transfer application under Section 24 read with Section 151 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 Rohtak to Ludhiana.

Notice of motion was issued.

Learned counsel for the respondent put appearance on 31.3.2016 and on his request, case was adjourned for today. However, neither any reply has been filed nor anybody has come present on behalf of the respondent to contest the instant transfer application.

Heard learned counsel for the applicant.

It has gone undisputed before this Court that there are two

2016.05.25 17:20
I attest to the accuracy and
authenticity of this document

children out of this wedlock. Applicant-wife, alongwith both her minor children, is staying with her parents at Ludhiana. Neither the applicant-wife is having any regular source of income, nor the respondent-husband is regularly paying the maintenance amount. Distance between Rohtak and Ludhiana is about 250 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 responsibility of the wife for bringing up the children, her financial status, her source of income, conduct of the husband in not paying the maintenance amount regularly 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 Mohan Singh Vs. Kiran, is ordered to be transferred from Rohtak and Ludhiana.

Accordingly, the learned District Judge, Rohtak, 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**

23.5.2016
AK Sharma