

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

TA No. 923 of 2015

Date of decision: 30.3.2016

Dr. Kiran @ Dr. Kiran Bala Kundu

.. Applicant

Vs.

Dr. Parminder

... Respondent

CORAM: HON'BLE MR.JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Sunil Panwar, Advocate
for the applicant.

None for the respondent.

RAMESHWAR SINGH MALIK, J. (Oral)

Applicant-wife, through instant transfer application under Section 24 of the Code of Civil Procedure, 1908, seeks transfer of a petition under Section 13 of the Hindu Marriage Act, 1955, ('HM Act' for short), filed by the respondent-husband, from Rohtak to Gurgaon.

Notice of motion was issued and further proceedings were stayed.

When the case came up for hearing on 2.3.2016, respondent had been duly served but none appeared on his behalf and in the interest of justice, case was adjourned for today. Similar is the position today. Neither anybody has come present on behalf of the respondent, nor any request for pass over has been made.

Heard learned counsel for the applicant.

It has gone undisputed between the parties that there is one child out of the wedlock. Applicant is staying with her parents at Gurgaon. Since the applicant-wife met with an accident, she is unable to work because of which she is not having any regular source of income. The respondent husband is not paying any amount of maintenance to the applicant-wife. She is living under the protective umbrella of her old parents. Distance between Gurgaon and Rohtak is about 90 kilometers.

In view of the abovesaid fact situation of the present case, this Court is of the considered opinion that the applicant-wife has made out a case for transferring the petition under Section 13 of the HM Act, filed by the respondent, from Rohtak to Gurgaon. It is so said because financial status of the wife 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.

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 application deserves to

be accepted and the same is hereby allowed. Accordingly, the learned District Judge, Rohtak, is directed to send complete record of the petition under Section 13 of the HM Act filed by the respondent-husband to the learned District Judge, Gurgaon, 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, Gurgaon, is also directed either to decide the case himself or assign it to the 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**

30.3.2016
AK Sharma