

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

TA No.457 of 2014

Date of decision: 21.04.2016

Sunita

... Applicant

Vs.

Jasbir Singh

... Respondent

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. R.D. Yadav, Advocate
for the applicant.

Mr. Rajender Singh Malik, Advocate
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, by way of instant application under Section 24 of the Code of Civil Procedure, seeks transfer of a divorce petition under Section 13 of the Hindu Marriage Act, 1955 (for short 'HM Act') filed by the respondent-husband from Sonapat to Rewari.

Notice of motion was issued as far back as on 13.08.2014. Thereafter on joint request made on behalf of the parties, case was referred to Mediation and Conciliation Centre of this Court. However, since the respondent-husband could not appear before the Mediation Centre, as he is stated to be serving in CRPF, conciliation proceedings could not succeed.

Heard learned counsel for the parties.

It has gone undisputed before this Court that applicant-wife along with her minor child, is living with her parents at her ancestral village in Tehsil Kosli, District Rewari. Applicant-wife is not having any regular source of income. Respondent-husband is not paying any amount of maintenance either for the applicant-wife or for the minor child. Distance between Sonapat and Rewari is more than 120 kilometers.

In view of the abovesaid undisputed fact situation obtaining in the present case, this Court is of the considered opinion that present 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 and distance between two places, besides her convenience, 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 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 transfer application deserves to be accepted and the same is hereby allowed. Divorce petition under Section 13 of the HM Act bearing No.HMA 72/2013 titled as Jasbir Singh Vs. Sunita is ordered to be transferred from Sonapat to Rewari.

Accordingly, learned District Judge, Sonapat is directed to send the complete record of the divorce petition under Section 13 of the HM Act bearing No.HMA 72/2013 titled as Jasbir Singh Vs. Sunita filed by the respondent-husband, to the learned District Judge, Rewari 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, Rewari 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.

However, it is made clear that both the parties shall be at liberty to settle the matter amicably, if they so desire.

Resultantly, with the observations made above and directions issued, instant transfer application stands disposed of, however, with no order as to costs.

[RAMESHWAR SINGH MALIK]
JUDGE

21.04.2016
vishnu