

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

**Transfer Application No.561 of 2016 (O&M)
Date of Decision: January 16, 2017**

Anju Masih

...Applicant

Versus

Prince Procha

...Respondent

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Ms.Sharmila Sharma, Advocate,
for the petitioner.

Dr.Naresh Kaushik, Advocate,
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, seeks transfer of petition under Section 10 of the Divorce Act, 1869, titled as ***“Prince Procha vs. Anju Masih”*** filed by the respondent-husband from Amritsar to Panipat.

Notice of motion was issued and the learned trial Court at Amritsar was directed to adjourn the case beyond the date fixed before this Court.

Heard learned counsel for the parties.

It is a matter of record that the applicant is living with her parents at her parental village in District Panipat. She is not having any regular source of income and is dependent on her parents. Respondent-

husband is not paying any amount of maintenance to the wife. Distance between Panipat and Amritsar is more than 400 km.

Keeping in view said undisputed facts, this Court feels no hesitation to conclude that petition filed by the respondent-husband under Section 10 of the Divorce Act, 1869, deserves to be transferred from Amritsar to Panipat. It is so stated because source of income of the applicant-wife and distance between two places are some of the relevant consideration for transferring the matrimonial proceedings, like the present one. Denial of transfer of the proceedings initiated by the respondent-husband from Amritsar to Panipat would amounts to denial of justice to the applicant-wife. In fact, interest of justice demands that proceedings initiated by the respondent-husband at Amritsar deserves to be transferred to Panipat, so as the applicant to defend herself effectively.

No other arguments 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.

Consequently, learned District Judge, Amritsar, is directed to send the complete record of the petition under Section 10 of the Divorce Act, 1869 Act titled as ***“Prince Procha vs. Anju Masih”*** to the learned District Judge, Panipat, at an early date and in any case within a period of one month from the date of receipt of a certified copy of this order.

Learned District Judge, Panipat, shall either decide the case

himself or assign it to another Court of competent jurisdiction at Panipat, for its early decision, in accordance with law. However, it is made clear that if the parties want to settle the dispute amicably, they would be granted an opportunity by the learned Court of competent jurisdiction at Panipat to settle the matter amicably.

With the abovesaid observations made and directions issued, instant transfer application stands allowed however, with no order as to costs.

January 16, 2017
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(RAMESHWAR SINGH MALIK)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No