

TA- 593 of 2017(O&M)
Date of Decision: 16.12.2017

Ridhima Sarwal

---Applicant

versus

Aalaap Gulati

---Respondent

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. Sandeep Jain, Advocate
for the applicant
Mr. Prateek Mahajan, Advocate
for the respondent

Rekha Mittal, J.

The applicant prays for transfer of petition titled “Aalaap Gulati vs. Smt. Ridhima Sarwal” from the court of District Judge, Family Court, Hisar to a court of competent jurisdiction at Chandigarh.

Counsel for the applicant has submitted that the respondent-husband has filed the petition for divorce at Hisar but he is residing in United States of America. It is further submitted that in view of physical distance between the two places namely Hisar and Chandigarh, it is highly inconvenient for the applicant to pursue the litigation pending in the court at Hisar. Another submission made by counsel is that two cases i.e. application under Section 125 of the Code of Criminal Procedure and complaint under the Protection of Women from Domestic Violence Act, 2005 though filed subsequent in time are pending in the court at Chandigarh.

Counsel representing the respondent has conceded that the respondent is a resident of United States of America. However, it has been

submitted that father of the respondent passed away recently and in absence of the respondent, his 67 years old mother has to pursue the petition and remain in touch with counsel representing the respondent, therefore, transfer of the petition to Chandigarh would cause inconvenience for mother of the respondent.

Be that as it may, it is undisputed position of the case that the respondent-husband is residing in United States of America and he may come to India for deposing as a witness on a particular date. Perusal of the divorce petition would reveal that the same has been filed by the husband in his personal capacity and not through an attorney. The physical distance between the two places is approximately 200 kms. Mother of the respondent cannot cause appearance on behalf of the respondent though she may contact counsel representing the respondent to know status of the proceedings. In such like cases, primary consideration is convenience or inconvenience of the parties to the lis. Under the circumstances, it is expedient in the interest of justice that the divorce petition pending at Hisar is withdrawn from the said court and transferred to the court of District Judge, Chandigarh for disposal, in accordance with law. The District Judge may keep the petition on its board or assign it to a court of competent jurisdiction at Chandigarh.

Disposed of accordingly.

(Rekha Mittal)
Judge

16.12.2017

PARAMJIT

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No