

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

115

FAO-M-177-2018

Date of Decision:25.05.2018

Surbhi Pahwa

.....Appellant

Versus

Gaurav Sukhija

.....Respondent

CORAM: HON'BLE MR.JUSTICE M.M.S. BEDI.
HON'BLE MR.JUSTICE HARI PAL VERMA.

Present: Mr. Mohit Rampal, Advocate,
for the appellant.

M.M.S. BEDI, J.(Oral)

The lower court has dismissed the petition under Section 13-B of the Hindu Marriage Act, 1955, (for brevity “the H.M. Act”) filed at Dera Bassi (Mohali), vide impugned order dated 01.05.2018 observing that no document has been produced on record to indicate that the parties last resided at the address given in the petition. Considering the pleadings to be vague, the petition under Section 13-B of the H.M. Act was dismissed on the ground that the court lacks territorial jurisdiction.

We have considered the impugned order and the petition under Section 13-B of the H.M. Act, which was filed before the lower court. In para 11 of the petition, it is specifically mentioned that the wife-petitioner No.1 is the resident of Zirakpur, which is within the jurisdiction of the lower court. It appears that the court has not considered the provision of Section 19 (iii)(a) of the H.M. Act, which was incorporated by Act 50 of 2003 w.e.f.

follows:-

“19. Court to which petition shall be presented. Every petition under this Act shall be presented to the district court within the local limits of whose ordinary original civil jurisdiction.

- (i) xx xx xx xx xx*
- (ii) xx xx xx xx xx*
- (iii) xx xx xx xx xx*
- (iii)(a) In case the wife is the petitioner, where she is residing on the date of presentation of the petition, or*
- (iv) xx xx xx xx xx.”*

This appeal is allowed. The order dated 01.05.2018 passed by Ms. Balvinder Kaur Dhaliwal, Additional Civil Judge (Sr. Divn.), Dera Bassi, is hereby set aside with a direction to the lower court that the petition will be taken up, in accordance with law.

The parties will appear before the lower court within a period of two months by moving an application. In case any such application is filed, the original file will be called from the record room, if consigned, and will be taken up for further proceedings as per provisions of law.

(M.M.S. BEDI)
JUDGE

May 25, 2018
seema

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No