

Sr. No.208

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

**TA No.157 of 2019 (O&M)
Date of Decision: 16.01.2020**

Jaswant Singh

... Applicant

Versus

Kamaldeep Kaur

... Respondent

CORAM:- HON'BLE MR. JUSTICE ARUN MONGA

Present:- Mr. Vikas Bali, Advocate,
for the appellant.

Mr. Rajiv Joshi, Advocate,
for the respondent.

ARUN MONGA, J.(ORAL)

1. Parties herein are in lis owing to the matrimonial discord which, *inter alia*, led to filing of the petition under Section 13 of the Hindu Marriage Act by the respondent-wife pending adjudication before Family Court, Hoshiarpur, sought to be transferred by the applicant-husband to Family Court, Jalandhar.

The present application has been filed under Section 24 of the Civil Procedure Code, 1908 for the aforesaid relief by the applicant-husband.

2. The brief factual matrix first. Marriage between the petitioner/applicant was solemnized on 07.10.2013 at Mini Palace Mahilpur in District Hoshiarpur. However, the marriage fell on the rocks and the parties got separated leading to filing of a petition under Section 13 of the HMA, 1955 by the respondent-wife seeking dissolution of the marriage by way of decree of divorce.

3. The husband-petitioner has pleaded that he is 100% disabled person, who is suffering from Post Polio Residual Paralysis B, L Lower Limb with Flexion contractures both knees and, therefore, is unable to attend family Court at Hoshiarpur being currently a resident of Jalandhar.

4. In the reply filed by the respondent-wife, it has been, *inter alia*, stated that even though the applicant-husband is handicapped but he has no difficulty in moving around as he can drive a tractor/car and can travel freely. It is further stated that his physical deformity does not hamper his everyday activities in any manner as he has devised various ways of his own to drive the aforesaid vehicles.

5. I have heard learned counsel for the parties and have also perused the respective pleadings. Regardless of the applicant/petitioner being a handicapped person what is borne out from record herein is that applicant is resident of Jethpur in District Jalandhar and assuming this Court were to accept his prayer for transfer of the case from Family Court, Hoshiarpur to Family Court, Jalandhar he would have still to travel a distance of 22 Kms as against the distance of 30 Kms to Family Court, Hoshiarpur from Jethpur. It is highly improbable that he would be travelling by non-motorized mode of transportation given the distance between his residence and the Family Court, regardless of the fact whether it is 22 kms or 30 kms. If the petitioner can travel 22 kms by whichever mode he chooses to travel, it is not comprehensible as to how he would be unable to travel 30 kms. It

is not the case of the applicant-husband that he has to travel by a manual rickshaw to cover the distance of 30 kms and the additional 8 kms would cause further physical burden and inconvenience both in terms of time and other things.

6. On the other hand, the respondent-wife claims that she is a deserted woman and has no means of earning as she has already preferred an application under Section 125 Cr.P.C. seeking maintenance, which is pending adjudication and the husband has not offered any money so far to her on his volition in the absence of any judicial orders being enforced against him.

7. Considering such conduct of the applicant-husband in the aforesaid circumstances, I find no case is made out for any indulgence to him.

8. In view of my discussion above and reasons contained therein, the transfer application is held bereft of merit and is, accordingly, dismissed.

16.01.2020

vandana

**(ARUN MONGA)
JUDGE**

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No