

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

TA No.155 of 2016

Date of decision: 24.05.2016

Kulwinder Kaur

... Applicant

Vs.

Gagandeep Singh

... Respondent

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Kashish Garg, Advocate
for the applicant.

Mr. Deepak Aggarwal, 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-wife, by way of present transfer application under Section 24 read with Section 151 of the Code of Civil Procedure, seeks transfer of a petition under Section 9 of the Hindu Marriage Act, 1955 (for short 'HM Act') filed by the respondent-husband from Bathinda to Ellenabad, District Sirsa.

Notice of motion was issued and in the meantime, further proceedings before the learned trial Court at Bathinda were stayed.

Heard learned counsel for the parties.

It has gone undisputed before this Court that the applicant-wife is staying with her parents, however, her place of residence is being disputed by learned counsel for the respondent. He further submits that the applicant

is serving in some private school in Rajasthan. However, this fact has also been disputed by learned counsel for the applicant. Be that as it may, respondent-husband is not paying any amount of maintenance to the applicant-wife, which is not in dispute. Other litigations between the parties, at the instance of the applicant-wife are pending at Ellenabad. Distance between Ellenabad and Bathinda is more than 130 kilometers.

In view of the abovesaid undisputed fact situation obtaining in the present case, this Court feels no hesitation to conclude that instant transfer application deserves to be allowed. It is so said because financial status of the wife, her source of income, conduct of the respondent-husband in not paying the amount of maintenance and distance between two places, besides the convenience of the wife, 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.

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. Petition under Section 9 of the HM Act titled as Gagandeep Singh Vs. Kulwinder Kaur filed by the respondent-husband, is ordered to be transferred from Bathinda to Ellenabad, District Sirsa.

Accordingly, learned District Judge, Bathinda is directed to send

the complete record of the abovesaid petition, to the learned District Judge, Sirsa 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, Sirsa is also directed to assign the abovesaid petition to the learned Court of competent jurisdiction at Ellenabad for its early decision, in accordance with law.

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

[RAMESHWAR SINGH MALIK]
JUDGE

24.05.2016
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