

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

**TA No.178 of 2016 (O&M)
Date of decision: 26.4.2016**

Varinder Kaur

.. Applicant

Vs.

Avtar Singh

... Respondent

CORAM: HON'BLE MR.JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Sushil Bhardwaj, Advocate
for the applicant.

None for the respondent.

RAMESHWAR SINGH MALIK, J. (Oral)

Applicant-wife, by way of instant transfer application under Section 24 of the Code of Civil Procedure, 1908, seeks transfer of a petition under Section 9 of the Hindu Marriage Act, 1955, ('HM Act' for short), filed by the respondent-husband, from Nabha, District Patiala to Karnal.

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

As per office report, respondent has been served. Case has been called twice over, however, nobody has come present on behalf of the respondent to contest the instant transfer application.

Heard learned counsel for the applicant.

It has gone undisputed before this Court that there is a child out of this wedlock. Applicant-wife, alongwith her child, is living with her parents at her ancestral village in District Karnal. Neither the applicant-wife is having any regular source of income nor the respondent-husband is paying any amount of maintenance either for the applicant-wife or for the minor child. Distance between Nabha and Karnal is more than 140 Kilometers.

In view of the abovesaid undisputed fact situation obtaining in the present case, this Court is of the considered opinion that instant transfer application deserves to be allowed. It is so said because financial status of the wife, her source of income, her responsibility for bringing up the children and distance between two places, besides her convenience, are some of the relevant considerations for deciding the transfer application like the present one.

The abovesaid view taken by this Court also finds support from the earlier 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.

No other argument 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 and the same is hereby allowed. Petition under Section 9 of the HM Act filed by the respondent-husband titled

as Avtar Singh Vs. Varinder Kaur, is ordered to be transferred from Nabha, District Patiala to District Karnal.

Accordingly, the learned District Judge, Patiala, is directed to send complete record of the abovesaid petition to the learned District Judge, Karnal, at an early date but in any case within a period of one month from the date of receipt of certified copy of this order.

The learned District Judge, Karnal is also directed either to decide the case himself or assign it to the learned court of competent jurisdiction, for an early decision, in accordance with law.

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

**(RAMESHWAR SINGH MALIK)
JUDGE**

26.4.2016
AK Sharma