

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

TA No.24 of 2016
Date of Decision : 27.4.2016

BabitaApplicant

Vs.

Pawan KumarRespondent

...

CORAM : HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

...

Present : Mr. Sarju Puri, Advocate for the applicant.

...

1. To be referred to the Reporter or not ?
2. Whether the judgement should be reported in Digest ?

RAMESHWAR SINGH MALIK, J

Applicant-wife, by way of instant application under Section 24 of the Code of Civil Procedure, seeks transfer of a petition under Section 9 of the Hindu Marriage Act filed by the respondent husband from Hoshiarpur to Shaheed Bhagat Singh Nagar (Nawanshehar).

Notice of motion was issued. As per office report, dasti notice issued to the respondent through his counsel before the learned trial court have been received back duly served for 27.2.2016. Thereafter, another opportunity was granted. However, none has come forward 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 are two children out of this wedlock. The applicant-wife alongwith her minor

children is living with her parents at Rahon, Tehsil Nawanshehar, Distt. S.B.S. Nagar. Neither the applicant-wife is having any regular source of income nor the respondent-husband is regularly paying any amount of maintenance either for the applicant-wife or for the children. Distance between the place of residence of the applicant-wife and Shaheed Bhagat Singh Nagar is about 80 kms.

In view of the abovesaid undisputed fact situation obtaining in the present case, this court is of the considered opinion that the present transfer application deserves to be allowed. It is so said because financial status of the wife, her source of income as well as her responsibility for bringing up the children 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 16.3.2016 passed by this court in TA N o.945 of 2015 (Sushma and others Vs. Kapil @ Sahil Bansal), which, in turn, was based on the judgements 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 Hindu Marriage Act bearing no.HMA/104/2015 titled as Pawan Kumar Vs. Babita is ordered to be transferred from Hoshiarpur to Shaheed Bhagat Singh Nagar.

Accordingly, learned District Judge, Hoshiarpur, is directed to

send the complete record of the abovesaid petition filed by the respondent-husband, to the learned District Judge, Shaheed Bhagat Singh Nagar 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, Shaheed Bhagat Singh Nagar is also directed either to decide the case himself or assign it to the learned court of competent jurisdiction 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.

27.4.2016
GS

(RAMESHWAR SINGH MALIK)
JUDGE