

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

TA No.242 of 2016

Date of decision: 24.05.2016

Sunita Devi

... Applicant

Vs.

Rakesh Kumar

... Respondent

**CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK**

Present: Mr. Rajesh Kapila, Advocate  
for the applicant.

None 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

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**RAMESHWAR SINGH MALIK, J. (ORAL)**

Applicant-wife is seeking transfer of a petition under Section 9 of the Hindu Marriage Act, 1955 (for short 'HM Act') filed by the respondent-husband from Pathankot to Gurdaspur, by way of present transfer application under Section 24 of the Code of Civil Procedure.

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

As per office report, service is complete, 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 one child out of this wedlock. Applicant-wife, along with her minor child, is staying with her parents at her ancestral village in District Gurdaspur. 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 child. Distance between Gurdaspur and Pathankot is more than 45 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 responsibility of the wife for bringing up the child, her financial status, 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 HM Act titled as

Rakesh Kumar Vs. Sunita Devi filed by the respondent-husband, is ordered to be transferred from Pathankot to Gurdaspur.

Accordingly, learned District Judge, Pathankot is directed to send the complete record of the abovesaid petition, to the learned District Judge, Gurdaspur 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, Gurdaspur 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.

**[ RAMESHWAR SINGH MALIK ]**  
**JUDGE**

24.05.2016  
*vishnu*