

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

TA No.34 of 2016

Date of decision: 10.05.2016

Kawaljeet Kaur

... Applicant

Vs.

Harwinder Singh

... Respondent

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. R.S. Guglia, Advocate for
Mr. Sukhwinder Singh, Advocate
for the applicant.

Mr. Nitesh Singhi, 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 instant 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 Ludhiana to Amritsar.

Notice of motion was issued and interim stay was granted.

Heard learned counsel for the parties.

It has gone undisputed before this Court that there is a child out of this wedlock. Applicant-wife, along with her minor child, is living with her parents at Amritsar. Applicant-wife is not having any regular source of income. Other litigations at the instance of the applicant-wife are also

pending at Amritsar. Distance between Ludhiana and Amritsar 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 responsibility for bringing up the child 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 Harwinder Singh Vs. Kawaljeet Kaur filed by the respondent-husband, is ordered to be transferred from Ludhiana to Amritsar.

Accordingly, learned District Judge, Ludhiana is directed to send the complete record of the abovesaid petition, to the learned District Judge, Amritsar 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, Amritsar 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

10.05.2016
vishnu