

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

TA No.290 of 2015

Date of decision: 10.05.2016

Maninder Kaur

... Applicant

Vs.

Ajay Kumar

... Respondent

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Rimple Saini, Advocate for
Mr. Naveen Batra, Advocate for the applicant.

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 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 Pathankot to Rupnagar.

When the instant transfer application came up for preliminary hearing on 24.04.2015, none appeared and the case was adjourned to 06.05.2015. When nobody appeared on 06.05.2015 as well, case was dismissed for non-prosecution. Thereafter, vide order dated 18.05.2015, application for restoration was allowed and the case was restored. Thereafter, vide order dated 31.07.2015, notice of motion was issued. None appeared on the last date of hearing on behalf of either of the parties. As per office report dated 18.03.2016, fresh notice issued to the respondent has been received

back duly served. However, none has come present on his behalf.

Heard learned counsel for the applicant.

It has gone undisputed before this Court that there are two children out of this wedlock. Applicant-wife, along with her minor children, is living with her parents at her ancestral village in District Ropar. Applicant-wife is not having any regular source of income. Distance between Pathankot and Rupnagar is about 200 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 responsibility of the wife to bring up the children, her financial status, her source of income 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 Ajay Kumar Vs. Maninder Kaur filed by the respondent-husband, is ordered to be transferred from Pathankot to Rupnagar.

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