

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

TA No.359 of 2015

Date of decision: 13.05.2016

Kulwinder Kaur

... Applicant

Vs.

Manpreet Singh

... Respondent

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. S.S.Sarwara, Advocate
for the applicant.

Mr. Gurcharan Singh, 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 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 Khanna, District Ludhiana to Kharar, District SAS Nagar (Mohali).

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

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 her ancestral village in Kharar, District SAS Nagar (Mohali). She is not having any regular source of income. Distance between Khanna and Kharar is more than 60 kilometers.

In view of the abovesaid undisputed fact situation obtaining in the present case, this Court feels no hesitation to conclude that the present transfer application deserves to be allowed. It is so said because responsibility of the wife for bringing up the child, 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 Manpreet Singh Vs. Kulwinder Kaur filed by the respondent-husband, is ordered to be transferred from Khanna, District Ludhiana to Kharar, District SAS Nagar (Mohali).

Accordingly, learned District Judge, Ludhiana is directed to send the complete record of the abovesaid petition, to the learned District Judge, SAS Nagar (Mohali) 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, SAS Nagar (Mohali) is also directed to assign the case to the learned Court of competent jurisdiction at Kharar 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

13.05.2016
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