

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**TA No. 513 of 2015
Date of decision: 31.3.2016**

Parminder Kaur

.. Applicant

Vs.

Varinder Singh

... Respondent

CORAM: HON'BLE MR.JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Dinesh Nagar, Advocate
for the applicant.

Mr. Shangara Singh, Advocate
for the respondent.

RAMESHWAR SINGH MALIK, J. (Oral)

Applicant-wife, by way of instant transfer application under Section 24 of the Code of Civil Procedure, 1908, seeks transfer of a petition under Section 9 of the Hindu Marriage Act, 1955, ('HM Act' for short), filed by the respondent-husband, from Chandigarh to Phillaur, District Jalandhar.

Notice of motion was issued and interim order was passed.

Reply on behalf of respondent, filed in the Court today, is taken on record and copy thereof has been supplied to the learned counsel for the applicant.

Heard learned counsel for the parties.

It has gone undisputed between the parties that there is a

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child out of the wedlock. Applicant, alongwith her minor child, is staying with her parents at her ancestral village Lasara, Tehsil Phillaur, District Jalandhar. Applicant does have any regular source of income. The respondent husband is not paying any amount of maintenance either to the applicant-wife or to the minor child. Distance between Phillaur and Chandigarh is more than 100 kilometers.

In view of the abovesaid fact situation of the present case, this Court feels no hesitation to conclude that petition under Section 9 of the HM Act filed by the respondent deserves to be transferred to Phillaur, District Jalandhar from Chandgarh. It is so said because financial status of the wife, her responsibility for bringing up the children and distance between two places, besides her convenience, are some of the relevant considerations for deciding the transfer application like the present one.

The abovesaid view taken by this Court also finds support from the earlier 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.

The argument raised by learned counsel for the respondent that petition under Section 9 of the HM Act filed by the respondent may be transferred either to Nawanshahr or Balachaur or Ropar or Ludhiana has not been found worth acceptance because it does not appeal to reason. Learned counsel for the respondent has not given any plausible reason as to why the petition under Section 9 of the HM Act be not transferred to Phillaur, District Jalandhar.

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 application deserves to be accepted and the same is hereby allowed. Petition under Section 9 of the HM Act filed by the respondent husband is ordered to be transferred from Chandigarh to Phillaur, District Jalandhar. Accordingly, the learned District Judge, Chandigarh is directed to send complete record of the petition under Section 9 bearing No. HMA/2606/2015 (Varinder Singh Vs. Parminder Kaur) filed by the respondent-husband, to the learned District Judge, Jalandhar, at an early date but in any case within a period of one month from the date of receipt of certified copy of this order. The learned District Judge, Jalandhar, is also directed to assign it to the court of competent jurisdiction at Phillaur, for an early decision, in accordance with law.

With the abovesaid observations made and directions issued, present transfer application stands disposed of, however, with no order as to costs.

**(RAMESHWAR SINGH MALIK)
JUDGE**

31.3.2016
AK Sharma