

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

**TA No. 527 of 2015 (O&M)
Date of decision: 6.5.2016**

Neha

.. Applicant

Vs.

Albert Masih

... Respondent

CORAM: HON'BLE MR.JUSTICE RAMESHWAR SINGH MALIK

Present: Nemo.

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 22 of the Special Marriage Act, 1954, ('the Act' for short), filed by the respondent-husband, from Jalandhar to Moga.

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

As per office report dated 3.5.2016, respondent has refused to accept notice which amounts to due service. However, nobody has come present on behalf of the respondent to contest the present transfer application.

Learned counsel for the applicant has also moved an adjournment slip. However, in view of the facts and circumstances of the case, adjournment is not warranted.

On the basis of uncontroverted averments taken in the instant transfer application, it has gone undisputed before this Court that applicant-wife is staying with her parents at Moga. Other litigations initiated at the instance of the applicant-wife are also pending at Moga. Neither the applicant-wife is having any regular source of income, nor the respondent-husband is paying any amount of maintenance to her. Distance between Jalandhar and Moga is about 70 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 financial status of the wife, her source of income 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.

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 22 of the Act filed by the respondent husband titled as Albert Masih Vs. Neha is ordered to be transferred from Jalandhar to Moga.

Accordingly, the learned District Judge, Jalandhar, is directed to send complete record of the abovesaid petition to the learned District Judge, Moga, 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, Moga, is also directed either to decide the case himself or assign it to the learned court of competent jurisdiction, 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**

6.5.2016
AK Sharma