

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

**TA No. 584 of 2015 (O&M)
Date of decision: 5.4.2016**

Nidhi Walia

.. Applicant

Vs.

Sahil Walia

... Respondent

CORAM: HON'BLE MR.JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Munish Gupta, Advocate
for the applicant.

Ms. Kulwant Kaur, 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 Pathankot to Ludhiana.

Notice of motion was issued and interim order was passed.

The matter was referred to the Mediation and Conciliation Centre. However, parties could not arrive at an amicable settlement. Report dated 1.4.2016 has been received from the learned Mediator.

Heard learned counsel for the parties.

It has gone undisputed between the parties that there is a child out of the wedlock. Applicant, alongwith her minor child, is staying with her parents at Khanna, District Ludhiana. Applicant-wife is not having any regular source of income. The respondent husband is not paying any amount of maintenance either for the applicant-wife or for the minor child. Distance between Pathankot and Khanna is about 200 Kilometers.

In view of the abovesaid fact situation of the present case, this Court feels no hesitation to conclude that the petition filed by the respondent-husband at Pathankot deserves to be transferred to Ludhiana. 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.

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.

Accordingly, the learned District Judge, Pathankot, is

directed to send complete record of the petition under Section 9 of the HM Act filed by the respondent-husband titled as Sahil Walia Vs. Nidhi Walia, to the learned District Judge, Ludhiana, 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, Ludhiana, is also directed to assign the case to the court of competent jurisdiction at Khanna, as the applicant-wife is staying at Khanna, 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**

5.4.2016
AK Sharma