

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

TA No.676 of 2015

Date of decision: 07.04.2016

Santosh

... Applicant

Vs.

Narender Kumar

... Respondent

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. G.S. Sidhu, Advocate
for the applicant.

Mr. Sidharth Gulati, 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 divorce petition under Section 13 of the Hindu Marriage Act, 1955 (for short 'HM Act') filed by the respondent-husband from Panipat to a learned Court of competent jurisdiction in District Patiala.

Notice of motion was issued and further proceedings 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 staying with her parents at Patran, District Patiala. Distance between Patran and Panipat is about 150 kilometers. Applicant-wife is not having any regular source of income.

During the course of hearing of instant transfer application, learned counsel for the parties have brought to the notice of this Court that respondent-husband has filed another petition under the relevant provisions of law at Panipat seeking custody of the minor child.

However at this stage, learned counsel for the parties have agreed for transfer of both the abovesaid two petitions filed by the respondent-husband at Panipat to a learned Court of competent jurisdiction at Kaithal, because other litigations at the instance of the applicant-wife are also pending at Kaithal. Further, distance between Kaithal and Patran would not be more than 40 kilometers.

In view of the abovesaid undisputed fact situation obtaining in the present case, this Court feels no hesitation to conclude that divorce petition under Section 13 of the HM Act as well as a petition seeking custody of the minor child, both having been filed by the respondent-husband at Panipat deserve to be transferred to a learned Court of competent jurisdiction at Kaithal. It is so said because financial status of the wife, her responsibility for bringing up the children and distance between two places, besides 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.

No other argument was raised.

In view of the abovesaid fact situation, instant transfer application is worth acceptance and the same is hereby allowed, as agreed by learned counsel for the parties. Both the abovesaid petitions filed by the respondent-husband at Panipat are ordered to be transferred to Kaithal.

Accordingly, learned District Judge, Panipat is directed to send the complete record of the divorce petition under Section 13 of the HM Act as well as the petition seeking custody of the child, filed by the respondent-husband at Panipat, to the learned District Judge, Kaithal 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, Kaithal is also directed to assign the abovesaid two petitions to the learned Court of competent jurisdiction for their 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

07.04.2016
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