

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

TA No.890 of 2015

Date of decision: 01.04.2016

Parminder Kaur

... Applicant

Vs.

Nirmal Singh

... Respondent

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. M.S. Saini, Advocate for
Mr. A.S. Dhaliwal, Advocate
for the applicant.

None 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, 1908, seeks transfer of a petition filed by the respondent-husband under Section 9 of the Hindu Marriage Act, 1955 (for short 'HM Act') from Ambala to Moga.

Notice of motion was issued. As per office report, service is complete, however, nobody has put appearance on behalf of the respondent to contest the instant transfer application.

Heard learned counsel for the applicant.

It has gone undisputed before this Court that there is a child out

of this wedlock. The applicant along with her child is staying with her parents at her ancestral village in District Moga. Respondent-husband is neither paying any amount of maintenance for the applicant-wife nor for the child. Applicant-wife is not having any regular source of income. Distance between the place of residence of the applicant and Ambala is more than 200 kilometers.

In view of the abovesaid undisputed fact situation obtaining in the present case, this Court feels no hesitation to conclude that petition under Section 9 of the HM Act filed by the respondent-husband at Ambala deserves to be transferred to Moga. It is so said because financial status of the wife, her responsibility for bringing up the children 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.

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 transfer application deserves to be accepted and the same is hereby allowed. Petition under Section 9 of the HM Act filed by the respondent-husband at Ambala is ordered to be transferred to Moga.

Accordingly, learned District Judge, Ambala is directed to send

the complete record of the petition under Section 9 of the HM Act filed by the respondent-husband, to the learned District Judge, Moga 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, Moga is also directed either to decide the case himself or assign it to the learned Court of competent jurisdiction for its early decision, in accordance with law.

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

[RAMESHWAR SINGH MALIK]
JUDGE

01.04.2016
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