

**HIGH COURT FOR THE STATES OF PUNJAB & HARYANA AT
CHANDIGARH**

TA-909-2015

Date of decision:1.6.2016

Iqbal Kaur

...Applicant

Versus

Harjinder Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

1. To be referred to the Reporters or not ?
2. Whether the judgment should be reported in the Digest ?

Present: Mr.Kartik Gupta, Advocate for the applicant.
Mr.Manpreet Singh Longia, Advocate for the respondent.

RAMESHWAR SINGH MALIK, J. (Oral)

Applicant-wife, by way of instant application under Section 24 of the Code of Civil Procedure, seeks transfer of the application under Section 25 read with Section 10 of Guardians and Wards Act, 1890 ('the Act' for short) (Annexure P-3) titled as 'Harjinder Singh Vs. Iqbal Kaur, filed by the respondent-husband, from Ropar to Hoshiarpur.

Notice of motion was issued and in the meantime further proceedings before the learned trial Court at Ropar were stayed.

Heard learned counsel for the parties.

It has gone undisputed before this Court that respondent-husband earlier filed a divorce petition at Ropar which had already been transferred by this Court to Hoshiarpur, vide order dated 9.4.2013 passed in TA No.75 of 2013 (Iqbal Kaur Vs. Harjinder Singh). Thereafter respondent-husband has filed an application under Section 25 read with Section 10 of the Act again at Ropar. There is one child out of this wedlock. Applicant-wife along with her minor child is living with her parents at her ancestral village in District Hoshiarpur. She is working at Hoshiarpur. Distance between Hoshiarpur and Ropar is about 100 kilometers.

In view of the above-said undisputed fact situation obtaining in the present case, this Court feels no hesitation to conclude that the instant transfer application deserves to be allowed. It is so said because responsibility of the applicant-wife for bringing up the child, pendency of other litigations between the parties at a particular place 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 order dated 16.3.2016 passed by this Court in **TA No.945 of 2015 (Sushma and others v. 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 the instant transfer application deserves to be accepted and the same is hereby allowed. The above-said application under Section 25 read with Section 10 of the Act (Annexure P-3), filed by the respondent-husband, is ordered to be transferred from Ropar to the learned court of competent jurisdiction at Hoshiarpur.

Accordingly, learned District Judge, Ropar, is directed to send the complete record of the above-said application under Section 25 read with Section 10 of the Act to the learned District Judge, Hoshiarpur, at an early date and in any case within a period of one month from the date of receipt of a certified copy of this order.

Learned District Judge, Hoshiarpur, 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.

However, as the prayer made by the learned counsel for the respondent has been found to be a genuine one, the learned courts of competent jurisdiction at Hoshiarpur, who would be trying the divorce petition and the application under Section 25 read with Section 10 of the Act, are directed to ensure that the date of hearing in both the cases is fixed together, so as to avoid any undue hardship to the respondent-husband. Further, it would be in the interest of both the parties to pursue their litigations without any undue hardship.

With the above-said observations made and directions issued, the instant transfer application stands disposed of.

1.6.2016
mks

(RAMESHWAR SINGH MALIK)
JUDGE