

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

TA No.935 of 2015

Date of decision: 20.05.2016

Kuljit Kaur through GPA Kulwant Singh

... Applicant

Vs.

Jaspal Singh

... Respondent

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Ajay Pal Singh, Advocate for the applicant.

Mr. Gurinder Sandhu, 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, through her attorney, seeks transfer of a petition under Section 25 of the Guardian and Wards Act, 1890 (for short 'GW Act') filed by herself from Patiala to Karnal, by way of present transfer application under Section 24 of the Code of Civil Procedure.

Notice of motion was issued.

Heard learned counsel for the parties.

It has gone undisputed before this Court that parties to the marriage went to England. A child was born. Thereafter, respondent-husband, along with his minor child, came back to India but the applicant-wife stayed back in England, in spite of a specific order dated 26.02.2015 passed by the competent authority of England, directing the respondent-husband, his wife as well as child to return back to India, on expiry of their

leave to stay in England.

The applicant-wife, while staying back in England, has filed a petition under Section 25 of the GW Act through her attorney at Patiala vide Annexure P-1 dated 14.08.2015. Now by way of instant transfer application, applicant-wife is seeking transfer of her own abovesaid petition filed under Section 25 of the GW Act from Patiala to Karnal, so as to facilitate her attorney, who is staying at Karnal, to pursue this litigation against the respondent-husband.

After hearing the learned counsel for the parties and going through the record of the case, this Court is of the considered opinion that instant transfer application is wholly misconceived, bereft of merit and without any substance, thus, it must fail. It is so said because applicant-wife has miserably failed to show her bonafide to pursue the instant litigation through her attorney, while staying in England. Further, her attorney is not even entitled for custody of the child and applicant-wife is not physically available in India.

In view of what has been discussed hereinabove, interest of justice demands that even if the applicant-wife wants to pursue the litigation initiated by her by way of Annexure P-1, she must continue to pursue the same at Patiala itself, because she herself has chosen to file said petition at Patiala.

In view of the above, instant transfer application is dismissed, however, with no order as to costs.

[RAMESHWAR SINGH MALIK]
JUDGE

20.05.2016
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