

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

TA No.936 of 2015

Date of decision: 25.04.2016

Mehak Shangari

... Applicant

Vs.

Anil Kumar

... Respondent

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Nemo.

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 petition under Section 9 of the Hindu Marriage Act, 1955 (for short 'HM Act') filed by the respondent-husband from Fazilka to Kapurthala.

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

As per office report, service is complete. Called twice, however, nobody has come present on behalf of either of the parties.

As per the uncontroverted averments taken in the instant transfer application, it has gone undisputed before this Court that the applicant-wife is living with her parents at Phagwara, District Kapurthala. Neither the applicant-wife is having any regular source of income nor the respondent-

husband is paying any amount of maintenance to the applicant-wife. Distance between Kapurthala and Fazilka 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 the present transfer application deserves to be allowed. It is so said because financial status of the wife, her source of income as well as the 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.

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 titled as Anil Kumar Vs. Mehak Shangari filed by the respondent-husband, is ordered to be transferred from Fazilka to Kapurthala.

Accordingly, learned District Judge, Fazilka is directed to send the complete record of the abovesaid petition, to the learned District Judge, Kapurthala 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, Kapurthala 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 disposed of, however, with no order as to costs.

[RAMESHWAR SINGH MALIK]
JUDGE

25.04.2016
vishnu