

In the High Court of Punjab and Haryana at Chandigarh

RA-CR-14-CII-2015 (O&M)
In/and TA No. 6 of 2015
Date of Decision: February 09, 2016

Shivani Gupta

... Applicant

Versus

Nitin Gupta

... Respondent

**CORAM: HON'BLE MR. JUSTICE PARAMJEET SINGH
DHALIWAL**

Present: Mr. Vishal Aggarwal, Advocate,
for the review applicant/respondent.

Mr. Preetwinder Singh Dhaliwal, Advocate,
for the applicant in Transfer application.

Paramjeet Singh Dhaliwal, J. (Oral)

Instant review application has been filed under Order 47 Rule 1 read with Section 151 of the Code of Civil Procedure (for short "CPC") for recalling/reviewing order dated 06.01.2015 passed by a Co-ordinate Bench of this Court in T.A. No. 6 of 2015. Since the learned Judge who passed the order has demitted the office, this review application has come before me.

Learned counsel for the respondent vehemently contended that order dated 06.01.2015 has been passed without issuing notice to the respondent/review applicant. It is mandatory under Section 24 of the CPC that notice to the opposite party is necessary. It is contended that while passing the order dated 06.01.2015, it has been recorded that no notice to the opposite side is being issued to avoid delay and further because no prejudice would be caused to the other party.

Learned counsel for the applicant vehemently contended that

order has been passed by the learned Single Judge in exercise of inherent powers and there is no necessity to issue notice to the opposite party. The Court can dispense with the service and straightway pass the order.

I have heard learned counsel for the parties and perused the record.

Perusal of Section 24(1) of the CPC reveals that if an application is filed for transfer of a case by any of the parties and after notice to the parties and after hearing such of them as desired to be heard, or of its own motion without such notice, the High Court at any stage can transfer the same, but hearing is necessity.

Keeping in view the fact that respondent has not been heard, order dated 06.01.2015 is recalled and transfer application No. 6 of 2015 is restored to its original stage.

TA No. 6 of 2015

Notice of motion.

Mr. Vishal Aggarwal, Advocate, accepts notice on behalf of the respondent.

With the consent of the learned counsel for the parties, the case is taken up for hearing today.

In view of the order passed in RA-CR-14-CII-2015, learned counsel for the applicant states that he may be permitted to withdraw the instant transfer application with liberty to file a fresh one after pleading subsequent events and better particulars.

Dismissed as withdrawn with the aforesaid liberty.

It has been pointed out by learned counsel for the respondent

that in pursuance of order dated 06.01.2015, petition under Section 13 of the Hindu Marriage Act has already been transferred to the District Judge, Barnala. Since the instant transfer application has been withdrawn, the transferee Court is directed to send back the entire record of the case to the learned District Judge, Amritsar, who may try it himself or assign to the appropriate Court. The parties are directed to appear before the learned District Judge, Amritsar on 25.02.2016.

CM-18434-CII of 2015

Since order dated 06.01.2015 has been recalled and transfer application has been dismissed as withdrawn, the application for modification of order dated 06.01.2015 has been rendered infructuous.

Disposed of as such.

February 09, 2016
vkd

[Paramjeet Singh Dhaliwal]
Judge