

TA No. 1008 of 2016

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

TA No. 1008 of 2016

Date of decision: 20.1.2017

Ramandeep Kaur

... Applicant

Vs.

Amardeep Singh and another

... Respondents

CORAM: HON'BLE MR.JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Mandeep Singh Sachdev, Advocate
for the applicant.

RAMESHWAR SINGH MALIK, J. (Oral)

CM No. 349-CII-2017

Applicant seeks permission to furnish details of the litigation pending between the parties.

Application is allowed, as prayed for.

CM stands disposed of.

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Applicant-wife, by way of instant transfer application under Section 24 of the Code of Civil Procedure, 1908, seeks transfer of divorce petition under Section 13 of the Hindu Marriage Act, 1955, ('HM Act' for short) bearing HMA No. 3703/4.7.2013 (Amardeep Singh Vs. Ramandeep Kaur and another), filed by the respondent-husband, from Kapurthala to Jalandhar.

Heard learned counsel for the applicant.

Learned counsel for the applicant submits that one of the grounds for seeking transfer of divorce petition from Kapurthala to Jalandhar is that the court staff where the matter is going on, is trying to help the respondent-husband. Second ground for seeking transfer is that the counsel who was

representing the petitioner before the matrimonial court at Kapurthala is no more ready to conduct the case any further. The third ground pointed out by learned counsel for the petitioner is that on the complaint made by the petitioner, learned Sessions Judge has ordered an enquiry against the members of court staff, who tried to manipulate the record. He prays for allowing the present transfer application.

Having heard learned counsel for the applicant at considerable length, after careful perusal of record of the case and giving thoughtful consideration to the contentions raised, this Court is of the considered opinion that instant one is not a fit case for ordering transfer of divorce petition from Kapurthala to Jalandhar. It is so said, because respondent-husband has already concluded his evidence. Evidence of the applicant-wife is going on. Thus, case is at the fag end and now, it is not the appropriate stage to transfer the divorce petition from Kapurthala to Jalandhar.

So far as the abovesaid three allegations levelled by the petitioner are concerned, these are self contradictory and have not been found worth acceptance, being wholly misplaced. Once learned Sessions Judge has already ordered an enquiry against members of the staff of court, where the case is being conducted, this would no more be a ground for seeking transfer. Further, case is not to be decided by the staff of the court but by the learned Presiding Officer.

If learned counsel for the applicant-wife who was representing her before learned matrimonial court at Kapurthala is no more ready to conduct her case, she would always be at liberty to engage another counsel or if necessity arises, she can also seek legal assistance from Legal Aid, which shall be provided to her free of cost, if she applies for the same. In case, divorce

petition is ordered to be transferred from Kapurthala to Jalandhar on the grounds pointed out hereinabove by learned counsel for the applicant, it would create a very wrong precedent. Until and unless, any of the members of the staff of the court is found guilty for the alleged misconduct, no adverse interference can be drawn against them. Competent authority is already looking into matter and it goes without saying that the matter shall be taken to its logical end. Further, as noticed hereinabove, the divorce petition itself is at the fag end, which does not call for any interference at the hands of this Court at this stage of the case.

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 present transfer application is misconceived, bereft of merit and without any substance. Thus, it must fail. No case for interference has been made out.

Resultantly, with the abovesaid observations made, instant transfer application stands dismissed, however, with no order as to costs.

20.1.2017
AK Sharma

(RAMESHWAR SINGH MALIK)
JUDGE

Whether speaking/reasoned Yes/No
Whether reportable: Yes/No