

TA No. 303 of 2016 (O&M)

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

**TA No. 303 of 2016 (O&M)
Date of decision: 22.2.2017**

Tara alias Suman

...Applicant

Versus

Dilip Devnath

...Respondent

CORAM:HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. A.P.S.Sandhu, Advocate
for the applicant.

Mr. P.K.S.Phoolka, Advocate
for the respondent.

RAMESHWAR SINGH MALIK, J. (Oral)

Applicant, by way of instant transfer application filed under Section 24 of the Code of Civil Procedure ('CPC' for short), seeks transfer of a petition filed by the respondent-husband under Section 25 of the Guardians and Wards Act, 1890 ('the Act' for short), from Bathinda to Amritsar.

Notice of motion was issued.

The case was referred to the Mediation and Conciliation Centre of this Court to explore the possibility of an amicable settlement, however, parties could not arrive at an amicable settlement.

Heard learned counsel for the parties.

During the course of hearing, learned counsel for the respondent made a statement before this Court that if the applicant agrees for visiting rights of the respondent to meet the minor child just for one hour after a

TA No. 303 of 2016 (O&M)

period of every two months, he shall withdraw his petition, seeking custody of the minor child.

When confronted with the abovesaid statement made by learned counsel for the respondent, learned counsel for the applicant submits that he has got the instructions to say that respondent is not entitled for visiting the child for one hour after every two months. However, learned counsel for the applicant could not give any justified reason or explanation as to why applicant is adamant against the visiting rights of the respondent.

Having heard learned counsel for the parties 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 applicant is not a bonafide litigant. Applicant is adamant without any justified reason. Visiting rights of the respondent could not have been denied.

It seems that applicant is trying to misuse the process of law with a view to satisfy her ego. Conduct of the parties to any litigation is one of the relevant considerations for deciding the matter. Since the applicant is not ready to accept the most genuine prayer made on behalf of the respondent for his visiting rights, present one has not been found to be a fit case for ordering transfer of petition filed by the respondent from Bathinda to Amritsar. In fact, applicant has not come to this court with clean hands, because of which she has not been found entitled for transfer of the abovesaid petition from Bathinda to Amritsar.

No other argument was raised.

Under the peculiar facts and circumstances of the case, noticed hereinabove, this Court is of the considered view that instant transfer application is liable to be dismissed, because no case for transfer of the

TA No. 303 of 2016 (O&M)

petition under Section 25 of the Act filed by the respondent has been made out.

However, it is made clear that if, during the pendency of the petition under Section 25 of the Act at Bathinda, applicant agrees for the visiting rights of the respondent, as indicated above, respondent shall remain bound by his abovesaid statement made before this Court regarding withdrawing his petition for custody of minor child. If the parties want to settle the matter amicably, learned court below shall facilitate them in arriving at a compromise, failing which the matter shall be decided at an early date, in accordance with law.

Resultantly, with the abovesaid observations made, instant transfer application stands disposed of.

22.2.2017
AK Sharma

(RAMESHWAR SINGH MALIK)
JUDGE

Whether Speaking/reasoned : Yes/No
Whether Reportable: Yes/No