

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

TA No.897 of 2016

Date of decision: 18.01.2017

Sonia

... Applicant

Vs.

Mintu

... Respondent

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Naveen Batra, Advocate
for the applicant.

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, bearing No.HMA/50/2016 titled as Mintu Vs. Sonia filed by the respondent-husband from Kapurthala to Nawanshahar.

Notice of motion was issued and the learned Court below was directed to adjourn the case beyond the date fixed before this Court.

As per office report dated 16.01.2017, notice issued to the respondent has been received back duly served. Thus, service is complete. The case was passed over in the pre-lunch session. However, when the case was taken up again, nobody came present on behalf of the respondent-husband to oppose the present transfer application.

Heard learned counsel for the applicant.

It has gone undisputed before this Court that the applicant-wife, along with her minor children, is living with her parents at her parental

village in District SBS Nagar (Nawanshahar). Since the applicant-wife is not working, she is dependent on her parents. Respondent-husband is not paying any amount of maintenance either for the applicant-wife or for the minor children. Distance between Kapurthala and Nawanshahar is about 100 kilometers. Another litigation initiated by the applicant-wife under Section 125 of the Code of Criminal Procedure is pending at Nawanshahar and the respondent-husband is appearing in that case.

In view of the abovesaid undisputed fact situation obtaining on the record of the present case, this Court is of the considered opinion that interest of justice demands the transfer of petition under Section 9 of the Hindu Marriage Act from Kapurthala to Nawanshahar. It is so said because the applicant-wife shall face great hardship in pursuing the litigation imposed on her by the respondent-husband, while going from Nawanshahar to Kapurthala. Refusal of transfer of the abovesaid petition from Kapurthala to Nawanshahar would amount to denial of justice to the applicant-wife, thus, it is just and expedient to transfer the proceedings under Section 9 of the Hindu Marriage Act from Kapurthala to Nawanshahar, so as to secure the ends of justice.

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 instant transfer application deserves to be accepted and the same is hereby allowed. Petition under Section 9 of the Hindu Marriage Act, bearing No.HMA/50/2016 titled as Mintu Vs. Sonia filed by the respondent-husband, is ordered to be transferred from Kapurthala to

Nawanshahar.

Accordingly, learned District Judge, Kapurthala is directed to send the complete record of the abovesaid petition, to the learned District Judge, Nawanshahar 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, Nawanshahar 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

18.01.2017
vishnu

Whether speaking/reasoned Yes/No

Whether reportable Yes/No