

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

104

TA-543-2018

Date of Decision : 15.11.2018

Narpinder Kaur

..... Applicant

Versus

Ashwani Kumar

..... Respondent

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present :- Mr. Harjot Singh Bedi, Advocate
for the Applicant.

Respondent present in person alongwith
Mr. Monty Goyal, Advocate.

AJAY TEWARI, J. (ORAL)

This transfer application has been filed by the applicant-wife to transfer a petition filed by the respondent-husband under Section 9 of the Hindu Marriage Act, 1955 from the District Court, Kurukshetra to a competent Court at Mukerian, District Hoshiapur.

The ground taken is that the respondent is actually a resident of United States of America and has filed this petition through GPA at Kurukshetra. The applicant is living and working at Mukerian and has two young daughters and it is, therefore, prayed that the matter be transferred to Mukerian. The respondent, who is present in person, states that actually he is very keen to reconcile this dispute with the applicant and for the sake of his family he is even willing to come back to India and to recreate his entire life if the applicant is willing to stay with him. Further the respondent states that this is the reason that he agreed for mediation and had rather extended his stay in India to facilitate this process but despite his best efforts the mediation has not succeeded. He

has very fairly stated that he would have no objection if the matter is transferred to Mukerian but the fact is that the applicant has not permitted him to meet his two young daughters. I asked him as to whether he is sending any money to his family, he states that he was regularly supporting his family till February, 2018 but since the applicant refused to come back to USA with him he stopped supporting them. Further the respondent points out that the maintenance application filed by the applicant is pending in Mukerian Court which is now fixed for 20.11.2018. He has stated that though the applicant is economically self-sufficient, he would have no objection in pitching in his share for the upbringing of his two daughters.

As an interim measure and without prejudice to the claims of both the parties in the ongoing maintenance case and to test the bonafide of the respondent, he is directed to create a fixed deposit of Rs.1,60,000/- in the name of each of his two daughters and would give proof thereof in the court. With effect from November, 2018 onwards he would undertake to deposit a sum of Rs.40,000/- p.m. before the court trying the maintenance application. Out of that amount, the court would create a recurring deposit of Rs.10,000/- each in favour of both the daughters in any nationalized bank and the remaining amount of Rs.20,000/- would be given to the applicant towards the share of the respondent for bringing up the two daughters. Counsel for the applicant has agreed that she would come present before the court on 20.11.2018 (which is stated to be the date fixed) alongwith the two daughters and allow the respondent to meet with them for at least 3 hours. The respondent has further stated that he would come back to India for about a week in the month of

March, 2019. It has also been agreed that he would communicate his programme in advance i.e. at least two months in advance so that the court/s can give a date during the time he is in India. On that date also, similarly the applicant will appear in person alongwith two children and give the respondent at least 3 hours access to them. The respondent has further stated that he would be back in India between May and August, 2019 for about three months. Once he is back, he would be at liberty to move the court to be able to visit/meet his daughters alongwith his mother (grandmother of the children) as often as it is practicable. It is also hoped that by August, 2019 the court/s would try to finally decide the cases. The deposit in the name of the children would be handed over to them on their attaining the age of majority. It has also been agreed that the respondent would be entitled to Video chat with his daughters on every Friday, Saturday, Sunday and Wednesday at a time which may be fixed with the convenience of the parties for a period of one hour. It may be clarified to both the parties that the measures relating to the children are not meant as an endorsement of the parties rights but as the rights of the children vis-a-vis their parents.

In the circumstances, the matter is transferred to the concerned Civil Judge (Sr. Division), Mukerian from the District Court, Kurukshetra. The record be sent to the Court at Mukerian. Parties through counsel are directed to appear before the concerned Civil Judge (Sr. Division), Mukerian on 17.12.2018.

Consequently, the transfer application stands allowed in the above terms.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

November 15, 2018
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(AJAY TEWARI)
JUDGE

Whether speaking/reasoned	-	Yes/No
Whether reportable	-	Yes/No