



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Sr. No.223

TA-1533-2024
Date of Decision: 03.02.2026

MUSKAN

....Applicant

Versus

ASHOK KUMAR

.....Respondent

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present:- Mr. Sandeep Punchi, Advocate
for the applicant.

None for the respondent.

ARCHANA PURI, J. (Oral)

As observed in the previous order, despite service, the respondent did not make appearance, on that date. Even today, he has not made appearance. Even, reply has not been filed, despite availing several opportunities. As such, respondent is proceeded against *ex parte*.

Counsel for the applicant heard.

The applicant-wife has filed the present application for seeking transfer of the petition under Section 9 of the Hindu Marriage Act i.e. DMC/587/2024 titled '*Ashok Kumar v/s Muskan*', filed by the respondent-husband, pending in the Family Court, Hisar and she seeks transfer of the same to the Court of competent jurisdiction at Sirsa.

At the very outset, it is submitted by the counsel for the applicant that the marriage between the parties to the lis, had taken place on



15.03.2021 and two sons were born from the said wedlock, who are in the age group of 2-3 years. Both the sons are stated to be in the care and custody of the respondent. The applicant is not having any source of earning. She has filed petition under Section 144 of Bharatiya Nagarik Suraksha Sanhita and complaint before the Police Station, Sirsa, which is still pending. Also it is submitted that the applicant is now allowed by the respondent to meet the children. On query by the court, it is submitted that till date, she has not filed any guardianship petition for seeking custody of the children.

In view of the submissions aforesaid, it is pertinent to mention that while adjudicating on the transfer application, various circumstances spelt out from the material coming on record, ought to be taken into consideration. Though, the courts lean towards the convenience of wife, while considering the transfer application, but however, the same is not a thumb rule. Other circumstances spelt out, also ought to be taken into consideration. The relevant aspect, which is required to be considered in the present case is about the two children, born from the estranged marriage, who are 2 and 3 years old, being in the custody of the respondent.

Though, the counsel for the applicant had stated that she is not allowed to meet the children, but nothing, as such, is coming on record about her having made an effort to meet the children, nor any guardianship petition has been filed.

Considering the same, it is pertinent to mention that looking at the age of the children, who are in the custody of respondent, several challenges must be faced by him, while taking care of the toddlers. In any



case, while considering the transfer application also, the best interest of the children born from the estranged marriage, ought to be considered.

Precisely, taking into consideration the same and the challenges which are bound to be faced by the respondent, even though, he has not made appearance, no case is made out for allowing the transfer application.

Hence, the same is hereby dismissed.

03.02.2026
Sonu Saini

(ARCHANA PURI)
JUDGE

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