

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

TA-112-2016

Date of decision: 16.3.2016

Kulwinder Kaur

...Petitioner

Versus

Amir Dass and others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

1. To be referred to the Reporters or not ?
2. Whether the judgment should be reported in the Digest ?

Present: Mr. Manjur Sud, Advocate for the petitioner.
Mr. H.S. Baath's, Advocate for the respondents.

RAMESHWAR SINGH MALIK, J. (Oral)

Petitioner-wife, by way of instant petition Section 24 of the Code of Civil Procedure, seeks transfer of civil suit bearing Civil Suit No. 2185 of 2015 titled as 'Amir Dass Vs. Kulwinder Kaur' from Jalandhar to Hoshiarpur.

Notice of motion was issued.

Heard learned counsel for the parties.

It is undisputed between the parties that there are two minor children out of the wedlock. Petitioner-wife is staying with her parents at Hoshiarpur. Petition under Section 9 of the Hindu Marriage Act, 1955 ('the HM Act' for short) is already pending between the parties at Hoshiarpur. Respondent-husband has filed the above-said civil suit, arising out of a matrimonial dispute, at Jalandhar. Petition under Section 125 Cr.P.C. filed by the petitioner-wife at Hoshiarpur was decided ex parte but now respondent-husband has moved for setting aside the ex parte order. Another petition moved by the petitioner-wife, seeking custody of the minor children, is also pending at Hoshiarpur.

In view of the above undisputed fact situation, obtaining in the present case, this Court is of the considered opinion that it would be in the interest of justice to transfer the above-said civil suit from Jalandhar to Hoshiarpur, so as to avoid undue harassment and hardship to the petitioner-wife in pursuing the litigation imposed on her by the respondent-husband.

The argument raised by the learned counsel for the respondent that distance between two places was hardly 25 kilometers, has been duly considered but the same has been found wholly misplaced for the reasons recorded hereinabove. Once number of other litigations are already pending at Hoshiarpur, civil suit filed by the respondent-husband deserves to be transferred to Hoshiarpur.

No other argument was raised on behalf of either of the parties.

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 instant petition deserves to be accepted and the same is hereby allowed. Civil Suit No.2185 of 2015 titled as 'Amir Dass Vs. Kulwinder Kaur' is ordered to be transferred to Hoshiarpur.

Accordingly, learned District Judge, Jalandhar, is directed to send the complete record of the above-said case to the learned District Judge, Hoshiarpur at an early date and in any case within a period of one month from the date of receipt of a certified copy of this order.

Learned District Judge, Hoshiarpur, is also directed to assign the case to the learned court of competent jurisdiction at Hoshiarpur for its early decision, in accordance with law.

With the above-said observations made and directions issued, the present petition stands disposed of.

16.3.2016
mks

(RAMESHWAR SINGH MALIK)
JUDGE