

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

TA-250-2016

Date of decision: 26.5.2016

Neha

...Applicant

Versus

Vinod Kumar

...Respondent

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. Rakesh Dhiman, Advocate for
Mr. Rajnikant Upadhyay, Advocate for the applicant.
Mr. Madan Sandhu, Advocate for the respondent.

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, 1955 ('the HM Act' for short), filed by the respondent-husband, from Kharar, District SAS Nagar (Mohali) to Jagadhri.

Notice of motion was issued and further proceedings before the learned trial Court at Kharar were stayed.

Heard learned counsel for the parties.

It has gone undisputed before this Court that there is one child out of this wedlock. Applicant-wife along with her minor child is staying at her ancestral village in District Yamuna Nagar. Neither the applicant-wife is having any regular source of income nor the respondent-husband is paying any amount of maintenance either for the applicant-wife or for the minor child. Distance between Kharar and Jagadhri is about 200 kilometers.

In view of the above-said undisputed fact situation obtaining in the present case, this Court feels no hesitation to conclude that the instant transfer application deserves to be allowed. It is so said because financial status of the wife, her responsibility for bringing up the child, her source of income, conduct of the respondent-husband in not paying any amount of maintenance and distance between two places, besides her convenience, are

some of the relevant considerations for deciding the transfer application, like the present one.

The abovesaid view taken by this Court also finds support from the order dated 16.3.2016 passed by this Court in **TA No.945 of 2015 (Sushma and others v. Kapil @ Sahil Bansal)**, which in turn, was based on the judgments of the Hon'ble Supreme Court, as well as different High Courts, including this Court.

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 the instant transfer application deserves to be accepted and the same is hereby allowed. The above-said petition under Section 9 of the HM Act, filed by the respondent-husband, is ordered to be transferred from the learned court of competent jurisdiction at SAS Nagar (Mohali) to Yamuna Nagar at Jagadhri.

Accordingly, learned District Judge, SAS Nagar (Mohali), is directed to send the complete record of the above-said petition to the learned District Judge, Yamuna Nagar at Jagadhri, 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, Yamuna Nagar at Jagadhri, 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 above-said observations made and directions issued, the instant petition stands disposed of.

26.5.2016
mks

(RAMESHWAR SINGH MALIK)
JUDGE