

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

TA No.261 of 2016

Date of decision: 02.05.2016

Suniti Sharma

... Applicant

Vs.

Suresh Kumar and others

... Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Ashwani Bakshi, Advocate
for the applicant.

Mr. P.C. Yadav, Advocate
for the respondents.

1. Whether reporters of local papers may be allowed to see the judgment? YES/NO
2. To be referred to the reporters or not? YES/NO
3. Whether the judgment should be reported in the digest? YES/NO

RAMESHWAR SINGH MALIK, J. (ORAL)

Applicant, by way of instant application under Section 24 of the Code of Civil Procedure, seeks transfer of a Civil Suit filed by respondents No.1 & 2 from Jagadhri to Ambala.

Notice of motion was issued

Heard learned counsel for the parties.

It has gone undisputed before this Court that the civil suit filed by respondents No.1 & 2 is an outcome of matrimonial dispute between the parties i.e. applicant and respondent No.3 who is son of respondents No.1 & 2. There is a child out of this wedlock. Applicant-wife, along with her minor child, is living with her parents in her ancestral village in District Ambala.

Neither the applicant-wife is working nor she is getting any amount of maintenance from the respondent No.3-husband either for herself or for the minor child. Pursuant to filing of the divorce petition by the respondent No.3-husband, applicant-wife has approached this Court by way of another transfer application bearing TA No.887 of 2015 (Suniti Sharma Vs. Harish Sharma), wherein notice of motion has been issued and further proceedings before the learned trial Court at Yamuna Nagar were stayed. As per the statement made by learned counsel for the applicant, said transfer application is pending for mediation before the Mediation and Conciliation Centre of this Court. Distance between Jagadhri and Ambala is about 50 kilometers.

In view of the abovesaid undisputed fact situation obtaining in the present case, this Court feels no hesitation to conclude that the present transfer application deserves to be allowed. It is so said because responsibility of the wife for bringing up the children, her financial status, source of income, conduct of the husband and distance between two places, besides the convenience of the wife, are some of the relevant considerations for deciding the transfer applications, like the present one.

The abovesaid view taken by this Court also finds support from the order dated 16.03.2016 passed by this Court in TA No.945 of 2015 (Sushma and others Vs. 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.

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. Civil Suit titled as Suresh Kumar and another Vs. Harish Kumar and another filed by respondents No.1 & 2, is ordered to be transferred from Jagadhri to Ambala.

Accordingly, learned District Judge, Yamuna Nagar is directed to send the complete record of the abovesaid civil suit, to the learned District Judge, Ambala 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, Ambala is also directed to assign the abovesaid civil suit 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

02.05.2016
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