

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

TA No.45 of 2016 (O&M)
Date of decision: 04.04.2016

Madhu Sharma

... Applicant

Vs.

Pawan Kumar Sharma

... Respondent

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Saurabh Garg, Advocate
for the applicant.

Mr. Arvind Galav, Advocate
for the respondent.

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-wife, by way of instant application under Section 24 of the Code of Civil Procedure, 1908, seeks transfer of a petition under Section 9 of the Hindu Marriage Act, 1955 (for short 'HM Act') filed by the respondent-husband from Sonipat to Kaithal.

Notice of motion was issued and interim order was passed.

Heard learned counsel for the parties.

It has gone undisputed before this Court that there are two children out of this wedlock and both are living with the applicant-wife. She along with her children, is living with her parents at Kaithal. Respondent-

husband is not paying any amount of maintenance either for the applicant-wife or for the children, despite the fact that he is serving as Accounts Officer in Transport Department, Haryana. Distance between Sonipat and Kaithal is more than 125 kilometers.

In view of the abovesaid undisputed fact situation obtaining in the present case, this Court is of the considered opinion that the petition bearing DMC No.809/2015 dated 17.11.2015 titled as Pawan Kumar Sharma Vs. Madhu Sharma under Section 9 of the HM Act filed by the respondent-husband deserves to be transferred from Sonipat to Kaithal. It is so said because responsibility of the applicant-wife for bringing up the children and distance between two places, besides the convenience of the wife, are some of the relevant factors 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.

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 instant transfer application deserves to be accepted and the same is hereby allowed. Petition bearing DMC No.809/2015 dated 17.11.2015 titled as Pawan Kumar Sharma Vs. Madhu Sharma under Section 9 of the HM Act filed by the respondent-husband at Sonipat is ordered to be

transferred to Kaithal.

Accordingly, learned District Judge, Sonipat is directed to send the complete record of the petition under Section 9 of the HM Act filed by the respondent-husband, to the learned District Judge, Kaithal 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, Kaithal 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. However, it is made clear that if both the parties intend to settle the matter amicably, learned trial Court at Kaithal shall make every endeavour to get the matter settled amicably.

With the observations made above and directions issued, instant transfer application stands disposed of, however, with no order as to costs.

04.04.2016

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[RAMESHWAR SINGH MALIK]
JUDGE