

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

TA No.409 of 2015

Date of decision: 18.05.2016

Shruti Kapoor

... Applicant

Vs.

Ullas Kapoor

... Respondent

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Sudhir Nar, Advocate
for the applicant.

None 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)

Transfer of a petition under Section 12 of the Hindu Marriage Act, 1955 (for short 'HM Act') filed by the respondent-husband, is being sought by the applicant-wife from Ambala to SAS Nagar (Mohali), by way of instant transfer application under Section 24 read with Section 151 of the Code of Civil Procedure.

Notice of motion was issued and in the meanwhile, further proceedings before the learned trial Court at Ambala were stayed.

As per office report dated 16.05.2016, service is complete. Called twice. However, none has come present on behalf of the respondent to contest the instant transfer application.

Heard learned counsel for the applicant.

It has gone undisputed before this Court that the applicant-wife is staying with her parents at SAS Nagar (Mohali). Neither the applicant-wife is having any regular source of income nor the respondent-husband is regularly paying the any amount of maintenance granted by the learned Court of competent jurisdiction. Distance between Ambala and SAS Nagar (Mohali) is about 60 kilometers.

In view of the abovesaid undisputed fact situation obtaining in the present case, this Court feels no hesitation to conclude that instant transfer application deserves to be allowed. It is so said because financial status of the wife, conduct of the respondent-husband while not regularly paying the amount of maintenance 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. Petition under Section 12 of the HM Act titled as Ullas Kapoor Vs. Shruti Kapoor filed by the respondent-husband, is ordered to be transferred from Ambala to SAS Nagar (Mohali).

Accordingly, learned District Judge, Ambala is directed to send

the complete record of the abovesaid petition, to the learned District Judge, SAS Nagar (Mohali) 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, SAS Nagar (Mohali) 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 abovesaid observations made and directions issued, instant transfer application stands disposed of, however, with no order as to costs.

[RAMESHWAR SINGH MALIK]
JUDGE

18.05.2016
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