

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

**TA No.576 of 2015
Date of decision:26.4.2016**

Sarita

...Applicant

Versus

Sanjay

...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.Parmod Chauhan, Advocate along with the applicant
in person.
Mr.Vipul Sharma, Advocate along with the respondent in
person.

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) bearing HMA No.90 of 2015 titled as 'Sanjay v. Sarita', filed by the respondent-husband from Gurgaon to Chandigarh.

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

In compliance of the order dated 15.3.2016 passed by this Court, respondent-husband has brought an amount of Rs.5,000/- by way of bank draft in the name of applicant-wife and the same has been handed over to her in the Court. However, at this moment, parties do not seem to be in a mood to settle the matter amicably.

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 with her parents at Chandigarh. She is serving at Chandigarh. Distance between Chandigarh and Gurgaon is more than 250 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 responsibility of the applicant-wife for bringing up the child 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. Petition under Section 9 of the HM Act bearing HMA No.90 of 2015 titled as 'Sanjay v. Sarita', filed by the respondent-husband, is ordered to be transferred from Gurgaon to Chandigarh.

Accordingly, learned District Judge, Gurgaon, is directed to send the complete record of the petition under Section 9 of the HM Act to the learned District Judge, Chandigarh, 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, Chandigarh, 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 parties shall be at liberty to settle the matter amicably, if they so desire.

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

26.4.2016

mks

MUKESH KUMAR SALUJA
2016.04.27 10:20
I attest to the accuracy and
authenticity of this document.

(RAMESHWAR SINGH MALIK)
JUDGE