

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

TA No.955 of 2015

Date of decision: 21.04.2016

Suman

... Applicant

Vs.

Ashok

... Respondent

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Bhim Singh, Advocate
for the applicant.

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 petition under Section 9 of the Hindu Marriage Act, 1955 (for short 'HM Act') filed by the respondent-husband from Hissar to Jind.

Notice of motion was issued.

Learned counsel for the applicant has placed before this Court two service reports. Respondent-husband has been served through his counsel before the learned trial Court, whereas on a separate notice issued by way of dasti process, father of the respondent-husband has refused to put his signatures on the summons. At an earlier point of time, notice issued was accepted by father of the respondent-husband. In this view of the matter, this Court is satisfied that respondent-husband has been duly served. However, none has come present to contest the instant transfer application.

Heard learned counsel for the applicant.

It has gone undisputed before this Court that applicant-wife is living with her parents at her ancestral village in District Jind. She is not having any regular source of income. Respondent-husband is not paying amount of maintenance on regular basis. Distance between the place of residence of the applicant and Hissar is about 70 kilometers.

In view of the abovesaid fact situation obtaining in the present case, this Court feels no hesitation to conclude that present transfer application deserves to be allowed. It is so said because financial status of the wife, her regular source of income and distance between two places, besides her convenience, 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.

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 under Section 9 of the HM Act filed by the respondent-husband is ordered to be transferred from Hissar to Jind.

Accordingly, learned District Judge, Hissar is directed to send the complete record of the petition under Section 9 of the HM Act bearing case No.DMC/54 of 2015 titled as Ashok Vs. Suman, to the learned District Judge, Jind 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, Jind 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.

Parties are directed to appear before the learned District Judge, Jind on 24.05.2016.

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

A copy of this order, under the signatures of Special Secretary attached to this Bench, be supplied to learned counsel for the applicant for onward transmission to the learned Court below.

21.04.2016
vishnu

[RAMESHWAR SINGH MALIK]
JUDGE