

Court No. - 2

Case :- TRANSFER APPLICATION (CIVIL) No. - 281 of 2023

Applicant :- Smt. Kalpana Yadav

Opposite Party :- Sri Navneet Singh

Counsel for Applicant :- Subodh Kumar Rai

Hon'ble Saral Srivastava,J.

Order on Order Sheet.

In view of office report dated 04.11.2023, service of notice upon opposite party is deemed to be sufficient.

Order on Transfer Application.

1. Heard learned counsel for the applicant.
2. No one appears on behalf of the opposite party even in repeated calls.
3. The present application has been filed by the applicant-wife seeking transfer of Case No.561 of 2022 (Navneet Singh Vs. Smt. Kalpana Yadav), under Section 13(1) of the Hindu Marriage Act pending in the court of Principal Judge, Family Court, District Auraiya to the court of Principal Judge, Family Court, Kanpur Nagar.
4. It is submitted by the learned counsel for the applicant that two proceedings; one under Section 125 of Cr.P.C. and another under Section 12 of Domestic Violence Act have been instituted by the applicant against the opposite party at Kanpur Nagar whereas opposite party has instituted the divorce petition at Auraiya. It is submitted that applicant alongwith her two minor sons is residing with her aged parents at Kanpur Nagar and distance between Kanpur Nagar to Auraiya is about 150 kilometres and applicant has no source of income to meet the litigation expenses and other expenses which is to be incurred in travelling from Kanpur Nagar to Auraiya to contest the case instituted by opposite party at Auraiya alongwith her two minor sons on each and every date fixed in the matter. It is further submitted that financial condition of applicant is not good to do pairvi in the case. It is further submitted that no amount towards maintenance is being paid to the

applicant by the opposite party. It is also submitted that balance of convenience also lay in favour of the applicant, and if the case is allowed to be proceeded at Auraiya, applicant would suffer serious prejudice.

5. The opposite party has neither put in appearance nor filed any counter affidavit. As the averments contained in the affidavit filed in support of the transfer application are unrebutted, and therefore, they are being treated to be correct.

6. It is settled in law that convenience of wife is to be looked into in case of dispute between the husband and wife. Therefore, considering the hardship which is being by the applicant-wife, it is a fit case where this Court should exercise its power to transfer the case from District Auraiya to Kanpur Nagar.

7. Accordingly, the Case No.561 of 2022 (Navneet Singh Vs. Smt. Kalpana Yadav), under Section 13(1) of the Hindu Marriage Act pending in the court of Principal Judge, Family Court, District Auraiya is transferred to the court of Principal Judge, Family Court, Kanpur Nagar.

8. The Principal Judge, Family Court, Auraiya is directed to remit the record of 561 of 2022 (Navneet Singh Vs. Smt. Kalpana Yadav), under Section 13(1) of the Hindu Marriage Act to the court of Principal Judge, Family Court, Kanpur Nagar for its disposal.

9. The Transfer Application is ***allowed*** with no order as to costs.

Order Date :- 6.11.2023

Sattyarth