

Court No. - 2

Case :- TRANSFER APPLICATION (CIVIL) No. - 296 of 2023

Applicant :- Sinky Banswada

Opposite Party :- Himanshu Banswada

Counsel for Applicant :- Vivek Kumar Srivastava, Sunny Srivastava

Counsel for Opposite Party :- Maohammd Nadeem

Hon'ble Saral Srivastava, J.

1. List has been revised. Learned counsel for the applicant is present. Learned counsel for the respondent is not present.

2. Heard learned counsel for the applicant.

3. The present application has been filed by the applicant-wife seeking transfer of Suit No.63 of 2022 (Himanshu Banswada Vs. Sinky Banswada), under Section 13 of the Hindu Marriage Act pending in the court of Principal Judge, Family Court, District Moradabad to the court of Principal Judge, Family Court, Allahabad.

4. It is submitted by the learned counsel for the applicant that the applicant along with her minor child is residing in her parental house at Allahabad. It is submitted that distance from Allahabad to Moradabad is more than 500 kilometres and applicant has no source of income to meet the litigation expenses and other expenses which is to be incurred in travelling from Allahabad to Moradabad to contest the case instituted by opposite party at Moradabad on each and every date fixed in the matter. It is further submitted that there is no male member in her family to accompany her to contest the proceedings. It is further submitted that financial condition of the applicant is not good to do pairvi in the case. 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 Moradabad, applicant would suffer serious prejudice.

5. The opposite party has neither put in appearance nor filed any counter affidavit, therefore, the averments contained in the affidavit filed in support of the transfer application are unrebutted and 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 faced by the applicant-wife, it is a fit case where this Court should exercise its power to transfer the case from District Moradabad to District Allahabad.

7. Accordingly, the Suit No.63 of 2022 (Himanshu Banswada Vs. Sinky Banswada), under Section 13 of the Hindu Marriage Act pending in the court of Principal Judge, Family Court, District Moradabad is transferred to the court of Principal Judge, Family Court, Allahabad.

8. The Principal Judge, Family Court, Moradabad is directed to remit the record of Suit No.63 of 2022 (Himanshu Banswada Vs. Sinky Banswada), under Section 13 of the Hindu Marriage Act to the court of Principal Judge, Family Court, Allahabad for its disposal.

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

Order Date :- 1.12.2023

R.S. Tiwari