

Court No. - 2

Case :- TRANSFER APPLICATION (CIVIL) No. - 337 of 2023

Applicant :- Nimisha Srivastava

Opposite Party :- Gaurav Upadhyay

Counsel for Applicant :- Awadh Bihari Pandey

Counsel for Opposite Party :- Prakhar Srivastava, Prabhat Kumar Srivastava

Hon'ble Saral Srivastava, J.

1. Heard learned counsel for the applicant and learned counsel for the opposite party.

2. The present application has been filed by the applicant-wife seeking transfer of H.M.A. Petition No.238 of 2023 (Gaurav Upadhyay Vs. Nimisha Srivastava), under Section 9 of Hindu Marriage Act, pending in the court of Principal Judge, Family Court, Ghaziabad to court of Principal Judge, Family Court, Kanpur Nagar.

3. It is submitted by the learned counsel for the applicant that the applicant is residing in her parental house along with her minor daughter at Kanpur Nagar. It is further submitted that distance between Kanpur Nagar to Ghaziabad is about 400 kilometre and applicant being lady is unable to go along with her minor daughter to contest the case instituted by opposite party at Ghaziabad on each and every date fixed in the matter. 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 Ghaziabad, applicant would suffer serious prejudice.

4. A counter affidavit has been filed on behalf of the opposite party denying the averments made in the transfer application, but no specific denial has been made to the averments contained in paragraph No.12 of the transfer application.

5. Further, 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 Ghaziabad to District Kanpur Nagar.

6. Accordingly, the H.M.A. Petition No.238 of 2023 (Gaurav Upadhyay Vs. Nimisha Srivastava), under Section 9 of Hindu Marriage Act, pending in the court of Principal Judge, Family Court, Ghaziabad is transferred to the court of Principal Judge, Family Court, Kanpur Nagar.

7. The Principal Judge, Family Court, Ghaziabad is directed to remit the record of H.M.A. Petition No.238 of 2023 (Gaurav Upadhyay Vs. Nimisha Srivastava), under Section 9 of Hindu Marriage Act to the court of Principal Judge, Family Court, Kanpur Nagar for its disposal.

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

Order Date :- 9.11.2023

R.S. Tiwari