

Court No. - 2

Case :- TRANSFER APPLICATION (CIVIL) No. - 357 of 2023

Applicant :- Smt. Shivani Sharma

Opposite Party :- Akash Sharma

Counsel for Applicant :- Ravi Kumar Mishra

Hon'ble Saral Srivastava,J.

Order on Order Sheet.

The office has submitted following report of service of notice upon opposite party on 29.11.2023:-

"Both the undelivered covers have been received back with similar remark "बार बार जाने पर प्राप्तकर्ता के घर पर ताला लगा मिलता है, अतः प्रेषक को वापस" also no one put in appearance."

In view of the report submitted by the office, the 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.1547 of 2022 (Akash Sharma Vs. Smt. Shivani Sharma), under Section 13 of the Hindu Marriage Act pending in the court of Principal Judge, Family Court, District Bareilly to court of Principal Judge, Family Court, District Pilibhit.
4. It is submitted by the learned counsel for the applicant that a proceeding Section 125 of Cr.P.C. has been instituted by the applicant against the opposite party at Pilibhit whereas opposite party has filed divorce petition at Bareilly. It is submitted that applicant alongwith her minor son is residing with her aged parents at Pilibhit and she is dependant upon her father. It is submitted that father of the applicant is a rickshaw puller and has no sufficient means of livelihood. It is further submitted that applicant has no source of income to meet the litigation expenses

and other expenses which is to be incurred in travelling from Pilibhit to Bareilly to contest the case instituted by opposite party at Bareilly alongwith her minor son 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 Bareilly, 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 Bareilly to District Pilibhit.

7. Accordingly, the Case No.1547 of 2022 (Akash Sharma Vs. Smt. Shivani Sharma), under Section 13 of the Hindu Marriage Act pending in the court of Principal Judge, Family Court, District Bareilly is transferred to the court of Principal Judge, Family Court, Pilibhit.

8. The Principal Judge, Family Court, Bareilly is directed to remit the record of Case No.1547 of 2022 (Akash Sharma Vs. Smt. Shivani Sharma), under Section 13 of the Hindu Marriage Act to the court of Principal Judge, Family Court, Pilibhit for its disposal.

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

Order Date :- 30.11.2023

Sattiyarth