

Court No. - 2

Case :- TRANSFER APPLICATION (CIVIL) No. - 405 of 2023

Applicant :- Smt. Arti

Opposite Party :- Nitin Tyagi

Counsel for Applicant :- Mohit Kumar

Hon'ble Saral Srivastava,J.

1. Heard learned counsel for the applicant. No one appears on behalf of respondent despite repeated calls.
2. The present transfer application has been filed by the applicant who is wife of respondent/ opp. party praying for transfer of Case No.2442 of 2022 (Nitin Tyagi Vs. Smt. Arti), under Section 9 of Hindu Marriage Act, 1955, pending in the Court of Principal Judge, Family Court, Ghaziabad to the Court of Principal Judge, Family Court, Saharanpur.
3. It is contended by the learned counsel for the applicant that the applicant-wife has no source of income and she is facing financial hardship in contesting the case under Section 9 of Hindu Marriage Act instituted by respondent-husband at District Ghaziabad. He further submits that since the applicant has no source of income, on account of which she is dependent upon her parents and is living at her parental house in District Saharanpur. The distance between District Saharanpur to Ghaziabad is about 150 kilometres, therefore, in such circumstances, it is very difficult for the applicant to meet the expenses in travelling from District Saharanpur to Ghaziabad to contest the case instituted by opposite party at District Ghaziabad on each and every date. Necessary averments in this respect have been made in paragraph nos.12 & 14 of the affidavit filed in support of the transfer application. It is

submitted that balance of convenience also lay in favour of the applicant-wife and if the case is allowed to be proceeded at Fatehpur, applicant would suffer serious prejudice.

4.The respondent 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 un-rebutted, therefore, they are treated to be true.

5. It is settled in law that the convenience of the 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 power to transfer the case from District Baghpat to District Mathura in the interest of justice.

6. Accordingly, Case No.2442 of 2022 (Nitin Tyagi Vs. Smt. Arti), under Section 9 of Hindu Marriage Act, 1955, pending in the Court of Principal Judge, Family Court, Ghaziabad is transferred to the Court of Principal Judge, Family Court, Saharanpur.

7. The Principal Judge, Family Court, Ghaziabad is directed to remit the record of Case No.2442 of 2022 (Nitin Tyagi Vs. Smt. Arti), under Section 9 of Hindu Marriage Act, 1955 to the Court of Principal Judge, Family Court, Saharanpur for its disposal.

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

Order Date :- 1.12.2023

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