

Court No. - 2

Case :- TRANSFER APPLICATION (CIVIL) No. - 466 of 2023

Applicant :- Smt. Pooja Pandey

Opposite Party :- Pankaj Pandey

Counsel for Applicant :- Atul Ojha, Madan Ji Pandey

Hon'ble Saral Srivastava, J.

1. List has been revised. Learned counsel for the applicant is present. However, learned counsel for the opposite party is not present despite service of notice.
2. Heard learned counsel for the applicant.
3. The present application has been filed by the applicant-wife seeking transfer of Case No.1450 of 2022 (Pankaj Pandey Vs. Pooja Pandey), under Section 13(1) of Hindu Marriage Act pending in the court of Principal Judge, Family Court, Varanasi to the competent court at Ballia.
4. It is submitted by the learned counsel for the applicant that the applicant is residing in her parental house at Ballia whereas opposite party has instituted the divorce petition at Varanasi. It is submitted that financial condition of the applicant is not good and parents of the applicant is not in a position to attend the proceeding along with the applicant at Varanasi. It is further submitted that distance between Ballia to Varanasi is more than 130 kilometres and applicant has no source of income to meet the litigation expenses and other expenses which is to be incurred in travelling from Ballia to Varanasi to contest the case instituted by opposite party at Varanasi on each and every date fixed in the matter. Thus, the submission is that if the case is allowed to be proceeded at Varanasi, 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 un rebutted, 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 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 Varanasi to Ballia.

7. In such view of the fact, Case No.1450 of 2022 (Pankaj Pandey Vs. Pooja Pandey), under Section 13(1) of Hindu Marriage Act pending in the court of Principal Judge, Family Court, Varanasi is transferred to the Court of Principal Judge, Family Court, Ballia.

8. The Principal Judge, Family Court, Varanasi is directed to remit the record of Case No.1450 of 2022 (Pankaj Pandey Vs. Pooja Pandey), under Section 13(1) of Hindu Marriage Act to the Court of Principal Judge, Family Court, Ballia for disposal of the same.

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

Order Date :- 29.11.2023

R.S. Tiwari