

Court No. - 2

Case :- TRANSFER APPLICATION (CIVIL) No. - 480 of 2023

Applicant :- Smt.Mamta

Opposite Party :- Sumit Kumar

Counsel for Applicant :- Dheeraj Kumar Singh

Hon'ble Saral Srivastava,J.

Order on Order Sheet.

In view of the office report dated 09.11.2023, service of notice upon opposite party is deemed to be sufficient.

Order on Transfer Application.

1. Heard learned counsel for the applicant. No one appears on behalf of the opposite party even in repeated calls.
2. The present application has been filed by the applicant-wife seeking transfer of Case No.610 of 2021 (Sumit Kumar Vs. Smt.Mamta), under Section 9 of the Hindu Marriage Act pending in the court of Principal Judge, Family Court, District Bulandshahr to court of Principal Judge, Family Court, District Gautam Buddh Nagar.
3. It is submitted by the learned counsel for the applicant that two proceedings; one under Section 12 of Domestic Violence Act and another under Section (1)(i-a) of Hindu Marriage Act have been instituted by the applicant against the opposite party at Gautam Buddh Nagar whereas opposite party has instituted the proceeding under Section 9 of Hindu Marriage Act at Bulandshahr. It is submitted that applicant is Assistant Teacher in Primary School at Aligarh. It is submitted that applicant has two brothers and her parents are residing at Gautam Buddh Nagar. It is further submitted that applicant is posted at Aligarh and it will be convenient for her to contest the litigation from Gautam Buddh Nagar as the distance between Gautam Buddh Nagar to Bulandshahr is short compared to distance from Aligarh to Bulandshahr. 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 Bulandshahr, applicant would suffer serious prejudice.

4. 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.

5. 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 by the applicant-wife, it is a fit case where this Court should exercise its power to transfer the case from District Bulandshahr to District Gautam Buddh Nagar.

6. Accordingly, the Case No.610 of 2021 (Sumit Kumar Vs. Smt.Mamta), under Section 9 of the Hindu Marriage Act pending in the court of Principal Judge, Family Court, District Bulandshahr is transferred to the court of Principal Judge, Family Court, Gautam Buddh Nagar.

7. The Principal Judge, Family Court, Bulandshahr is directed to remit the record of Case No.610 of 2021 (Sumit Kumar Vs. Smt.Mamta), under Section 9 of the Hindu Marriage Act to the court of Principal Judge, Family Court, Gautam Buddh Nagar for its disposal.

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

Order Date :- 16.11.2023

Sattyarth