

Court No. - 2

Case :- TRANSFER APPLICATION (CIVIL) No. - 520 of 2023

Applicant :- Babu Khan And 7others

Opposite Party :- Smt. Allah Di (Since Deceased) And 4 Others

Counsel for Applicant :- Mahtab Alam

Hon'ble Saral Srivastava,J.

1. Heard learned counsel for the applicants.
2. The present transfer application has been filed by the applicants seeking transfer of Civil Appeal No.16 of 2021 (Babu Khan and Others Vs. Smt. Allah Di & Others) pending before Additional District Judge, Court No.3, Aligarh to any other competent court.
3. The record reveals that the applicants have already filed a transfer application bearing Transfer Application No.134 of 2023 before the District Judge, Aligarh which was rejected by District Judge vide order dated 05.05.2023.
4. In the instant application, the applicants have not assailed the order of the District Judge rejecting their transfer application. Once an order is passed by the competent court rejecting the transfer application and that is operating against the applicants, the applicants cannot seek transfer of the case without assailing that order. This Court in the case of ***Babu Singh and others Vs. Raj Bahadur Singh and others passed in Transfer Application (Civil) No.121 of 2021*** has held that an order rejecting the transfer application is revisable under Section 115 of C.P.C., therefore, in such view of the fact, the present transfer application is not maintainable.
5. Consequently, the Transfer Application is ***dismissed*** with liberty to the applicants to avail the appropriate remedy available in law.

Order Date :- 28.10.2023

Sattyarth