

Court No. - 2

Case :- TRANSFER APPLICATION (CIVIL) No. - 533 of 2023

Applicant :- Parveen

Opposite Party :- Furkan

Counsel for Applicant :- Bipin Kumar, Mohd. Naushad Siddiqui

Counsel for Opposite Party :- Anjit Kumar Verma

Hon'ble Saral Srivastava, J.

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.519 of 2023 (Furkan Vs. Parveen), (Restitution of Conjugal Rights) pending in the court of Principal Judge, Family Court, District Ghaziabad to Principal Judge, Family Court, Muzaffar Nagar.
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 Muzaffar Nagar whereas opposite party has instituted a case for Restitution of Conjugal Rights at Ghaziabad. The applicant-wife has one and half years old daughter and she has no source of income to look after her child, and therefore, it is very difficult for her to meet the expenses in travelling from Muzaffar Nagar to Ghaziabad, which is around 90 kilometre, to contest the case 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 Varanasi, applicant would suffer serious prejudice. Necessary averments in this respect have been made in paragraphs 5, 10 and 11 of the affidavit filed in support of the transfer application which is being reproduced hereinbelow:-

"5. That applicant is wife and pardanasheen lady and she having a daughter namely Ruhi aged about 1-1/2 years, so from Muzaffar Nagar to Ghaziabad distance of 90 k.m. is difficult for applicant/wife to travel each and every date and there is also other difficulty and threat of life from opposite party and one case of section 125 Cr.P.C. is already pending in the Principal Judge, Family Court, Muzaffar Nagar in which notices has been served upon the opposite party.

10. That till today the opposite party has not given any single penny to the applicant regarding the look after the minor daughter of the applicant, namely, Km. Ruhi.

11. That the applicant is residing in her father's house at Muzaffar Nagar and the daughter fo the applicant is a minor and she cannot travel from Muzaffar Nagar to Ghaziabad because there is no male member to travel with the applicant or his minor daughter for appearance in the matrimonial case at Ghaziabad, so looking into the hardship of applicant, the case may be transferred from Ghaziabad to Muzaffar Nagar."

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 Ghaziabad to District Muzafar Nagar.

7. Accordingly, the Case No.519 of 2023 (Furkan Vs. Parveen), (Restitution of Conjugal Rights) pending in the court of Principal Judge, Family Court, District Ghaziabad is transferred to the court of Principal Judge, Family Court, Muzafar Nagar.

8. Principal Judge, Family Court, District Ghaziabad is directed to remit the record of Case No.519 of 2023 (Furkan Vs. Parveen), (Restitution of Conjugal Rights) to the court of Principal Judge, Family Court, Muzafar Nagar for its disposal.

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

Order Date :- 29.11.2023 / A.N. Mishra