

Court No. - 2

Case :- TRANSFER APPLICATION (CIVIL) No. - 540 of 2023

Applicant :- Smt. Bhawana

Opposite Party :- Ajay Swami

Counsel for Applicant :- Kusum Lata

Hon'ble Saral Srivastava,J.

Order on Order Sheet

In view of the office report dated 30.11.2023, service of notice upon the respondent is confirmed. Accordingly, service of notice upon the respondent is deemed sufficient.

Order on Transfer Application

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.482 of 2021 (Ajay Swami Vs. Smt. Bhawana), under Section 13 of Hindu Marriage Act, pending in the Court of Principal Judge, Family Court, Baghpat to the Court of competent Court at District Mathura.
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 13 of Hindu Marriage Act instituted by respondent-husband at District Baghpat. He further submits that the applicant is living separately on a rented accommodation at District Mathura. The distance between District Mathura to Baghpat is more than 200 kilometre, therefore, in such circumstances, it is very difficult for the applicant to meet the expenses in travelling from District Mathura to Baghpat to

contest the case instituted by opposite party at Distrit Baghpat on each and every date.Necessary averments in this respect have been made in paragraph nos.9 & 12 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 fled 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.482 of 2021 (Ajay Swami Vs. Smt. Bhawana), under Section 13 of Hindu Marriage Act, pending in the Court of Principal Judge, Family Court, Baghpat is transferred to the Court of Principal Judge, Family Court, Mathura.

7. The Principal Judge, Family Court, Baghpat is directed to remit the record of Case No.482 of 2021 (Ajay Swami Vs. Smt. Bhawana), under Section 13 of Hindu Marriage Act to the Court of Principal Judge, Family Court, Mathura for its disposal.

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

Order Date :- 1.12.2023

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