

Court No. - 2

Case :- TRANSFER APPLICATION (CIVIL) No. - 345 of 2019

Applicant :- Vinati Dhaka

Opposite Party :- Principal Judge, Family Court, Muzaffarnagar
And Another

Counsel for Applicant :- Sunil Singh, Virendra Kumar Jaiswal

Hon'ble Saral Srivastava, J.

Order on Order sheet

As per office report dated 25.10.2023, service of notice upon the respondent is confirmed. Therefore, service of notice upon the respondent is deemed sufficient.

Order on Transfer Application

1. Heard learned counsel for the applicant.
2. The present transfer application has been filed by the applicant who is wife of the respondent praying for transfer of Matrimonial Petition No.206 of 2019 (Deepak Chaudhary Vs. Smt. Vinati Dhanka), under Section 9 of the Hindu Marriage Act, pending in the Court of Principal Judge, Family Court, District Muzaffarnagar to the Principal Judge, Family Court, Ghaziabad.
3. It is contended by the learned counsel for the applicant that three proceeding: one under Sections 498A, 323, 406, 307, 504, 506 I.P.C. and Section 3/4 D.P. Act, (ii) under Section 12 of Domestic Violence Act & (iii) under Section 125 Cr.P.C. have been instituted by the applicant against the opposite party, which are pending at District Court Ghaziabad, details of which have been given in paras-6, 7 & 8 of the affidavit filed in support of the transfer application. He submits that the distance between District Moradabad to District Pilibhit is about 100 kilometres and further opp. party has given threat to the applicant for dire consequence if she goes to attend the proceedings at District Muzaffarnagar, therefore, in such circumstances, it is very difficult for the

applicant to contest the case instituted by opposite party at District Muzaffarnagar on each and every date. 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 Muzaffarnagar, applicant would suffer serious prejudice.

4. The record reveals that no counter affidavit has been filed. 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, it is a fit case where this Court should exercise power to transfer the case from District Muzaffarnagar to Ghaziabad in the interest of justice.

6. Accordingly, in the interest of justice, Matrimonial Petition No.206 of 2019 (Deepak Chaudhary Vs. Smt. Vinati Dhanka), under Section 9 of the Hindu Marriage Act, pending in the Court of Principal Judge, Family Court, District Muzaffarnagar is transferred to the Court of Principal Judge, Family Court, Ghaziabad.

7. The Principal Judge, Family Court, Muzaffarnagar is directed to remit the record of Matrimonial Petition No.206 of 2019 (Deepak Chaudhary Vs. Smt. Vinati Dhanka), under Section 9 of the Hindu Marriage Act to the Court of Principal Judge, Family Court, Ghaziabad for its disposal.

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

Order Date :- 26.10.2023/NS