

Court No. - 2

Case :- TRANSFER APPLICATION (CIVIL) No. - 581 of 2023

Applicant :- Tara Devi

Opposite Party :- Anil

Counsel for Applicant :- Prashant Pandey

Hon'ble Saral Srivastava,J.

Order on Order Sheet

In view of the office report dated 06.12.2023, service of notice upon the opp. party 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/opp. party praying for transfer of Case No.673 of 2017 (Anil Vs. Tara Devi), under Section 13 of the Hindu Marriage Act, 1955, pending in the Court of Additional Principal Judge, Family Court-III, District Jaunpur to any other Family Court of competent jurisdiction at District Varanasi.
3. It is contended by the learned counsel for the applicant that the applicant-wife has no source of income, on account of which she is dependent upon her parents, and she along with her minor daughter is living at her parental house in Varanasi and there is none in the family of the applicant except her old father to accompany her to contest the case, therefore, in such circumstances, it is very difficult for the applicant to bear the expenses in travelling from District Varanasi to Jaunpur to contest the case instituted by opposite party at District Jaunpur on each and every date. The distance between District Varanasi to District Jaunpur is about 100 Kms., therefore, in such circumstances, it is

very difficult for the applicant to meet the expenses in travelling from District Varanasi to District Jaunpur to contest the case instituted by opposite party on each and every date. No amount towards maintenance is being paid to the applicant by the opposite party. Necessary averments in this respect have been made in paragraph nos.20, 22, 23 & 24 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 instituted by the opp. party-husband is allowed to be proceeded at District Jaunpur, the applicant would suffer serious prejudice.

4. The respondent has neither put in appearance nor filed 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 Jaunpur to District Varanasi in the interest of justice.

6. Accordingly, Case No.673 of 2017 (Anil Vs. Tara Devi), under Section 13 of the Hindu Marriage Act, 1955, pending in the Court of Additional Principal Judge, Family Court-III, District Jaunpur is transferred to the Court of Principal Judge, Family Court, Varanasi.

7. The Principal Judge, Family Court, Jaunpur is directed to remit the record of Case No.673 of 2017 (Anil Vs. Tara Devi), under Section 13 of the Hindu Marriage Act, 1955 to the Court of Principal Judge, Family Court, Varanasi for its disposal.

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

Order Date :- 7.12.2023
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