

Court No. - 2

Case :- TRANSFER APPLICATION (CIVIL) No. - 593 of 2023

Applicant :- Smt. Madhvi Gautam

Opposite Party :- Ashish Kumar

Counsel for Applicant :- Sanjay Kumar Dubey, Ashwani Kumar Mishra

Counsel for Opposite Party :- Shreesh Srivastava

Hon'ble Saral Srivastava, J.

1. Heard learned counsel for the applicant and Sri Anubhav Sinha, Advocate holding brief of Sri Shreesh Srivastava, learned counsel for the opposite party.

2. The present application has been filed by the applicant-wife seeking transfer of Case No.709 of 2023 (Ashish Kumar Vs. Smt. Madhvi Gautam), under Section 13(1)(a) of the Hindu Marriage Act pending in the court of Principal Judge, Family Court, District Gautam Buddh Nagar to the court of Principal Judge, Family Court, District Jhansi.

3. It is submitted by the learned counsel for the applicant that a proceeding under Section 125 of Cr.P.C. has been instituted by the applicant against the opposite party at Jhansi whereas opposite party has instituted the divorce petition at Gautam Buddh Nagar. It is submitted that parents of the applicant have expired and applicant is residing with her Uncle (Mama) at Jhansi and distance between Jhansi to Gautam Buddh Nagar is about 410 kilometres and applicant has no source of income to meet the litigation expenses and other expenses which is to be incurred in travelling from Jhansi to Gautam Buddh Nagar to contest the case instituted by opposite party at Gautam Buddh Nagar on each and every date fixed in the matter. It is further submitted that financial condition of the applicant is not good to do pairvi in the case. 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 Gautam Buddh Nagar, applicant would suffer serious prejudice.

4. A counter affidavit has been filed on behalf of the opposite party denying the averments made in the transfer application, but no specific denial has been made to the averments contained in paragraph nos.11 to 13 nor opposite party has produced any

material to substantiate that applicant is working in Multi National Companies.

5. 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 by the applicant-wife, it is a fit case where this Court should exercise its power to transfer the case from District Gautam Buddh Nagar to District Jhansi.

6. Accordingly, the Case No.709 of 2023 (Ashish Kumar Vs. Smt. Madhvi Gautam), under Section 13(1)(a) of the Hindu Marriage Act pending in the court of Principal Judge, Family Court, District Gautam Buddh Nagar is transferred to the court of Principal Judge, Family Court, Jhansi.

7. The Principal Judge, Family Court, Gautam Buddh Nagar is directed to remit the record of Case No.709 of 2023 (Ashish Kumar Vs. Smt. Madhvi Gautam), under Section 13(1)(a) of the Hindu Marriage Act to the court of Principal Judge, Family Court, Jhansi for its disposal.

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

Order Date :- 1.11.2023
Sattyarth