

Court No. - 2

Case :- TRANSFER APPLICATION (CIVIL) No. - 574 of 2022

Applicant :- Aastha Kushwaha

Opposite Party :- Pooran Prasad

Counsel for Applicant :- Sanjay Srivastava

Counsel for Opposite Party :- Jay Babu Kesharwani

Hon'ble Saral Srivastava,J.

1. List has been revised. Learned counsel for the applicant is present. However, no one is present on behalf of the opposite party.

2. Heard learned counsel for the applicant.

3. The present application has been filed by the applicant-wife seeking transfer of Case No.21 of 2021 (Pooran Prasad Vs. Aastha Kushwaha), under Section 9 of the Hindu Marriage Act pending in the court of Principal Judge, Family Court, District Chitrakoot to court of Principal Judge, Family Court, District Kaushambi.

4. It is submitted by the learned counsel for the applicant that two proceedings; one under Section 125 of Cr.P.C. and another under Sections 498A, 323, 504 and 506 I.P.C & Section 3/4 of Dowry Prohibition Act have been instituted by the applicant against the opposite party at Kaushambi whereas opposite party has instituted the proceeding under Section 9 of Hindu Marriage Act at Chitrakoot. It is submitted that applicant is residing with her aged father at Kaushambi. It is submitted that father of the applicant is a farmer and has no proper source of income and applicant is totally depend upon him. It is further submitted that applicant has no source of income to meet the litigation expenses and other expenses which is to be incurred in travelling from Kaushambi to Chitrakoot to contest the case instituted by opposite party at Chitrakoot on each and every date fixed in the matter. It is further submitted that there is no other person in the family of the applicant to accompany her to contest the case at Chitrakoot. It is further submitted that financial condition of 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 Chitrakoot, applicant would suffer serious prejudice.

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 by the applicant-wife, it is a fit case where this Court should exercise its power to transfer the case from District Chitrakoot to District Kaushambi.

7. Accordingly, the Case No.21 of 2021 (Pooran Prasad Vs. Aastha Kushwaha), under Section 9 of the Hindu Marriage Act pending in the court of Principal Judge, Family Court, District Chitrakoot is transferred to the court of Principal Judge, Family Court, Kaushambi.

8. The Principal Judge, Family Court, Chitrakoot is directed to remit the record of Case No.21 of 2021 (Pooran Prasad Vs. Aastha Kushwaha), under Section 9 of the Hindu Marriage Act to the court of Principal Judge, Family Court, Kaushambi for its disposal.

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

Order Date :- 29.11.2023

Sattyarth