

Court No. - 2

Case :- TRANSFER APPLICATION (CIVIL) No. - 628 of 2023

Applicant :- Smt. Pinki Gupta

Opposite Party :- Vikas Kumar Gupta

Counsel for Applicant :- Praveen Kumar Singh

Hon'ble Saral Srivastava,J.

Order on Order Sheet.

In view of the office report dated 28.11.2023, service of notice upon opposite party is deemed sufficient.

No one has put in appearance on behalf of the opposite party even in repeated calls.

Order on Transfer Application.

1. Heard learned counsel for the applicant.
2. The present transfer application has been filed by the applicant-wife seeking transfer of Case No.709 of 2023 (Vikas Kumar Gupta Vs. Pinki Gupta) under Section 13 of Hindu Marriage Act pending in the court of Principal Judge, Family Court, Varanasi to the competent court at District Azamgarh.
3. It is submitted by the learned counsel for the applicant that two proceedings; one under Section 125 of Cr.P.C. and another in Complaint Case No.1239 of 2022, under Sections 498A, 323, 504 and 506 I.P.C. and Section 3/4 of Dowry Prohibition Act have been instituted by the applicant against the opposite party at Azamgarh whereas opposite party has instituted the divorce petition at Varanasi. It is further submitted that applicant is residing along with her father at Azamgarh and distance between Azamgarh to Varanasi is about 100 kilometres and applicant has no source of income to meet the litigation expenses and other expenses which is to be incurred in travelling from Azamgarh to Varanasi to contest the case instituted by opposite party at Varanasi on each and every date fixed in the matter. It is further submitted that no amount towards maintenance is being paid to the applicant by the opposite party. Thus, the submission is that if the case is allowed to be proceeded at Varanasi, applicant would suffer serious prejudice.

4. The opposite party 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 unrebutted, therefore, they are being treated to be correct.

5. It is settled in law that convenience of wife is to be looked into in case of dispute between 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 its power to transfer the case from District Varanasi to Azamgarh.

6. In such view of the fact, Case No.709 of 2023 (Vikas Kumar Gupta Vs. Pinki Gupta) under Section 13 of Hindu Marriage Act pending in the court of Principal Judge, Family Court, Varanasi is transferred to the Court of Principal Judge, Family Court, Azamgarh.

7. The Principal Judge, Family Court, Varanasi is directed to remit the record of Case No.709 of 2023 (Vikas Kumar Gupta Vs. Pinki Gupta) under Section 13 of Hindu Marriage Act to the Court of Principal Judge, Family Court, Azamgarh for disposal of the same.

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

Order Date :- 29.11.2023

R.S. Tiwari