

Court No. - 2

Case :- TRANSFER APPLICATION (CIVIL) No. - 603 of 2022

Applicant :- Smt. Hita

Opposite Party :- Vibhor Kumar Rastogi

Counsel for Applicant :- Kshitij Shailendra, Akanksha Mishra, Ved Prakash Mishra

Counsel for Opposite Party :- Sachin Malik, Dinesh Kumar Yadav

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.2736 of 2021 (Vibhor Kumar Rastogi Vs. Smt. Hita), under Section 13 of the Hindu Marriage Act pending in the court of Principal Judge, Family Court, Meerut to court of Principal Judge, Family Court, Sambhal at Chandausi.

4. It is submitted by the learned counsel for the applicant that a proceeding under Sections 498A, 323, 420, 506 and 307 I.P.C. & Section 3/4 of Dowry Prohibition Act has been instituted by the applicant against the opposite party at Sambhal whereas opposite party has instituted the divorce petition at Meerut. It is submitted that applicant alongwith her minor son is residing with her aged parents at Sambhal and is dependent upon her aged parents. It is further submitted that distance between Sambhal to Meerut is about 140 kilometres and applicant has no source of income to meet the litigation expenses and other expenses which is to be incurred in travelling from Sambhal to Meerut to contest the case instituted by opposite party at Meerut alongwith her minor son on each and every date fixed in the matter. It is further submitted that parents of the applicant are old and suffering from many ailments. It is further submitted that financial condition of applicant is not good to do pairvi in the case. It is further submitted that no amount towards maintenance is being paid to the applicant by the opposite party. 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 Meerut, applicant would suffer serious prejudice.

5. 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 the paragraph nos.11 & 12 of the transfer application regarding source of income of the applicant.

6. Further, 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 faced by the applicant-wife, it is a fit case where this Court should exercise its power to transfer the case from District Meerut to District Sambhal at Chandausi.

7. Accordingly, the Case No.2736 of 2021 (Vibhor Kumar Rastogi Vs. Smt. Hita), under Section 13 of the Hindu Marriage Act pending in the court of Principal Judge, Family Court, Meerut is transferred to the court of Principal Judge, Family Court, Sambhal at Chandausi.

8. The Principal Judge, Family Court, Meerut is directed to remit the record of Case No.2736 of 2021 (Vibhor Kumar Rastogi Vs. Smt. Hita), under Section 13 of the Hindu Marriage Act to the court of Principal Judge, Family Court, Sambhal at Chandausi for its disposal.

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

Order Date :- 29.11.2023

Sattiyarth