

Court No. - 2

Case :- TRANSFER APPLICATION (CIVIL) No. - 647 of 2023

Applicant :- Radha

Opposite Party :- Sonu Vishwakarma

Counsel for Applicant :- Sharda Vishwakarma, Ankur Vishwakarma

Hon'ble Saral Srivastava, J.

Order on Order Sheet.

This Court by order dated 28.11.2023 held the service of notice upon opposite party sufficient.

Accordingly, the transfer application is being heard exparte.

Order on Transfer Application.

1. Heard learned counsel for the applicant.
2. No one appears on behalf of the opposite party even in repeated calls.
3. The present application has been filed by the applicant-wife seeking transfer of Case No.685 of 2022 (Sonu Vishwakarma Vs. Radha), under Section 13 of Hindu Marriage Act pending in the court of Principal Judge, Family Court, Jaunpur to court of Principal Judge, Family Court, Allahabad.
4. It is submitted by the learned counsel for the applicant that two proceedings; one under Section 12 of Domestic Violence Act and another in Case Crime No.0368 of 2022, under Sections 498A, 323, 376, 511 and 506 I.P.C. and Section 3/4 of Dowry of Prohibition Act have been instituted by the applicant against the opposite party and his family members at Allahabad whereas opposite party has instituted the divorce petition at District, Jaunpur. It is submitted that distance between Allahabad to Jaunpur is about 120 kilometres and there is no direct conveyance from the residence of applicant to Jaunpur. 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 Allahabad to Jaunpur to contest the case instituted by

opposite party at Jaunpur on each and every date fixed in the matter. 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 Varanasi, 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 faced by the applicant-wife, it is a fit case where this Court should exercise its power to transfer the case from District Jaunpur to District Allahabad.

7. Accordingly, the Case No.685 of 2022 (Sonu Vishwakarma Vs. Radha), under Section 13 of Hindu Marriage Act pending in the court of Principal Judge, Family Court, Jaunpur is transferred to the court of Principal Judge, Family Court, Allahabad.

8. The Principal Judge, Family Court, District Jaunpur is directed to remit the record of the Case No.685 of 2022 (Sonu Vishwakarma Vs. Radha), under Section 13 of Hindu Marriage Act to the court of Principal Judge, Family Court, Allahabad for its disposal.

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

Order Date :- 29.11.2023

A.N. Mishra