

Court No. - 2

Case :- TRANSFER APPLICATION (CIVIL) No. - 706 of 2023

Applicant :- Smt. Divya

Opposite Party :- Sri Shivam Sharma

Counsel for Applicant :- Sohith Prakash Sharma, Saurabh Tripathi

Hon'ble Saral Srivastava, J.

Order on Order Sheet.

In view of office report dated 26.10.2023, service of notice upon opposite party is deemed to be sufficient.

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.606 of 2023 (Shivam Sharma Vs. Divya), under Section 13 (1A) 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, Agra.
4. It is submitted by the learned counsel for the applicant that the applicant is residing in her parental house at Agra. It is submitted that distance from Agra to Gautam Buddh Nagar is more than 170 kilometres and applicant has no source of income to meet the litigation expenses and other expenses which is to be incurred in travelling from Agra 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 no amount towards maintenance is being paid to the applicant by the opposite party. 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.

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 Gautam Buddh Nagar to District Agra.

7. Accordingly, the Case No.606 of 2023 (Shivam Sharma Vs. Divya), under Section 13 (1A) 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, Agra.

8. The Principal Judge, Family Court, Gautam Buddh Nagar is directed to remit the record of Case No.606 of 2023 (Shivam Sharma Vs. Divya), under Section 13 (1A) of the Hindu Marriage Act to the court of Principal Judge, Family Court, Agra for its disposal.

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

Order Date :- 27.10.2023

R.S. Tiwari