

Court No. - 2

Case :- TRANSFER APPLICATION (CIVIL) No. - 719 of 2023

Applicant :- Smt. Shivani Rathour

Opposite Party :- Praveen Kumar

Counsel for Applicant :- Ritesh Kumar Singh

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. 874 of 2022, Praveen Kumar vs. Smt. Shivani Rathour, under Section 13 of the Hindu Marriage Act, 1955 pending in the court of Additional Principal Judge, Family Court, Manipuri to the Principal Judge, Family Court, Kanpur Dehat.
4. It is submitted by the learned counsel for the applicant that the applicant has no source of livelihood of her own and is not getting maintenance. She has filed an application for maintenance under Section 125 Cr.P.C. before the Family Court, at Kanpur Dehat. Given the limitation of her resources, it is not possible for the applicant to defend outstation litigation. The applicant is also not in a position to travel from Kanpur Dehat to Mainpuri to attend the proceedings on each date fixed because the distance between two stations is 210 kms. It is also submitted that there is no family member to accompany her to attend proceedings at Mainpuri. It is further submitted that opposite party is threatening the applicant to withdraw the cases instituted by her against him.

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 un rebutted 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 Mainpuri to District Kanpur Dehat.

7. Accordingly, the Case No. 874 of 2022, Praveen Kumar vs. Smt. Shivani Rathour, under Section 13 of the Hindu Marriage Act, 1955 pending in the court of Additional Principal Judge, Family Court, Manipuri is transferred to the court of Principal Judge, Family Court, Kanpur Dehat.

8. The Additional Principal Judge, Family Court, Manipuri is directed to remit the record of the Case No. 874 of 2022, Praveen Kumar vs. Smt. Shivani Rathour, under Section 13 of the Hindu Marriage Act, 1955 to the court of Principal Judge, Family Court, Kanpur Dehat for its disposal.

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

Order Date :- 29.11.2023

A.N. Mishra