

Court No. - 2

Case :- TRANSFER APPLICATION (CIVIL) No. - 733 of 2022

Applicant :- Shreya Bhattacharya

Opposite Party :- Bhaskar Bhattacharya And 4 Others

Counsel for Applicant :- Prashant Pandey, Ankit Kapoor

Hon'ble Saral Srivastava, J.

Order on Order Sheet.

The office has submitted following report of service of notice on 09.11.2023:-

"Report of process server is received as respondent was not at home so a copy of notice has been pasted on his door. Furthermore, an undelivered cover has been returned with P.O. remark "Addressee left" and no one put in appearance."

The Case No.925 of 2022 has been instituted by the opposite party at Gautam Buddh Nagar and steps for service of notice has been taken on the address given in the aforesaid case filed by the opposite party.

In such view of the fact, the service of notice upon opposite party is deemed to be sufficient.

Order on Transfer Application.

1. Heard learned counsel for the applicant. No one appears on behalf of the opposite party even in repeated calls.
2. The present application has been filed by the applicant-wife seeking transfer of Case No.925 of 2022 (Bhaskar Bhattacharya Vs. Shreya Bhattacharya), under Section 13 of the Hindu Marriage Act pending in the court of Additional Principal Judge, Family Court, District Gautam Buddh Nagar to the court of Principal Judge, Family Court, District Varanasi.
3. It is submitted by the learned counsel for the applicant that applicant alongwith her minor child is residing with her aged parents at Varanasi whereas opposite party has instituted the divorce petition at Gautam Buddh Nagar. It is submitted that distance between Varanasi to Gautam Buddh Nagar is about 800

kilometres and applicant has no source of income to meet the litigation expenses and other expenses which is to be incurred in travelling from Varanasi to Gautam Buddh Nagar to contest the case instituted by opposite party at Gautam Buddh Nagar alongwith her minor child on each and every date fixed in the matter. 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 Gautam Buddh Nagar, applicant would suffer serious prejudice.

4. 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.

5. 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 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 Varanasi.

6. Accordingly, the Case No.925 of 2022 (Bhaskar Bhattacharya Vs. Shreya Bhattacharya), under Section 13 of the Hindu Marriage Act pending in the court of Additional Principal Judge, Family Court, District Gautam Buddh Nagar is transferred to the court of Principal Judge, Family Court, Varanasi.

7. The Principal Judge, Family Court, Gautam Buddh Nagar is directed to remit the record of Case No.925 of 2022 (Bhaskar Bhattacharya Vs. Shreya Bhattacharya), under Section 13 of the Hindu Marriage Act to the court of Principal Judge, Family Court, Varanasi for its disposal.

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

Order Date :- 16.11.2023

Sattyarth