

Court No. - 2

Case :- TRANSFER APPLICATION (CIVIL) No. - 499 of 2019

Applicant :- Ghazala Parveen

Opposite Party :- Asif Afzal Malik

Counsel for Applicant :- Syed Irfan Ali

Counsel for Opposite Party :- Hemant Kumar,Gautam,Mohd.
Shamim,Pradeep Kumar Keshri

Hon'ble Saral Srivastava,J.

1. List has been revised. Learned counsel for the opp. party is not present.
2. Heard learned counsel for the applicant.
3. The present transfer application has been filed by the applicant who is wife of the respondent/opp. party praying for transfer of Case No.408 of 2018 (Asif Afzal Malik Vs. Ghazala Parveen), under Section 281 Muslim Act, pending in the Court of Principal Judge, Family Court, Varanasi to the Court of Principal Judge, Family Court, District Ghazipur.
3. It is contended by the learned counsel for the applicant that the applicant-wife is a pardanasi lady and she has no source of income, due to which she is dependent upon her mother and brother, and is living with them at District Ghazipur and there is none in the family of the applicant to accompany her to contest the case, therefore, in such circumstances, it is very difficult for the applicant to bear the expenses in travelling from District Ghazipur to District Varanasi to contest the case instituted by opposite party at District Varanasi on each and every date. The distance between District Ghazipur to District Varanasi is about 125 Kms., therefore, in such circumstances, it is very difficult for the applicant to meet the expenses in travelling from District Ghazipur to District Varanasi to contest the case instituted by opposite party on each and every date. Necessary averments in this respect have been

made in paragraph nos.13 & 14 of the affidavit filed in support of the transfer application. It is submitted that balance of convenience also lay in favour of the applicant-wife and if the case instituted by the opp. party-husband is allowed to be proceeded at District Varanasi the applicant would suffer serious prejudice.

4. A counter affidavit has been filed by the opp. party denying the averments made in the transfer application and the averments made in paragraph nos.13 & 14 of the affidavit filed in support of the transfer application have been replied in paragraph no.12 of the counter affidavit but no specific denial has been made to the averments contained in paragraph nos.13 and 14 of the transfer application.

5. It is settled in law that the convenience of the 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 power to transfer the case from District Varanasi to District Ghazipur in the interest of justice.

6. Accordingly, Case No.408 of 2018 (Asif Afzal Malik Vs. Ghazala Parveen), under Section 281 Muslim Act, pending in the Court of Principal Judge, Family Court, Varanasi is transferred to the Court of Principal Judge, Family Court, Ghazipur.

7. The Principal Judge, Family Court, Varanasi is directed to remit the record of Case No.408 of 2018 (Asif Afzal Malik Vs. Ghazala Parveen), under Section 281 Muslim Act to the Court of Principal Judge, Family Court, Ghazipur for its disposal.

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

Order Date :- 30.11.2023/NS