

Court No. - 2

Case :- TRANSFER APPLICATION (CIVIL) No. - 765 of 2022

Applicant :- Anita Prajapati

Opposite Party :- Sumit Kumar

Counsel for Applicant :- Anil Kumar Bind

Counsel for Opposite Party :- Rajesh Kumar Shukla

Hon'ble Saral Srivastava,J.

1. Heard learned counsel for the parties.
2. The present transfer application has been filed by the applicant who is wife of the respondent praying for transfer of the Complaint Case No.549 of 2022 (Sumit Kumar Prajapati Vs. Anita Prajapati), under Section 9 of Hindu Marriage Act, pending in the court of Principal Judge, Family Court, Jaunpur to the court of Principal Judge, Family Court, Kanpur Nagar.
3. It is contended by the learned counsel for the applicant that the applicant-wife has no source of income and is facing financial hardship, on account of which she is fully dependent on her aged parents and is living at her parental house at Kanpur Nagar. The distance between District Kanpur Nagar to Jaunpur is about 300 kilometres and further opp. party has threatened the applicant to face dire consequence in case she goes to attend the case at Jaunpur, therefore, in such circumstances, it is very difficult for the applicant to meet the expenses in travelling from District Kanpur Nagar to Jaunpur to contest the case instituted by opposite party at District Jaunpur on each and every date. The said fact has been stated in paragraph nos.11 & 12 of the affidavit filed in support of 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

Jaunpur, the applicant would suffer serious prejudice.

4. A counter affidavit has been filed by the respondent denying the averments made in paragraph nos.11 & 12 of the affidavit filed in support of the transfer application in paragraph nos.10 & 11 of the counter affidavit, but no specific denial has been made in paragraph no.10 & 11 to the counter affidavit to the averments contained in paragraph nos.11 & 12 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 Jaunpur to Kanpur Nagar in the interest of justice.

6. Accordingly, in the interest of justice, Complaint Case No.549 of 2022 (Sumit Kumar Prajapati Vs. Anita Prajapati), under Section 9 of Hindu Marriage Act, pending in the court of Principal Judge, Family Court, Jaunpur is transferred to the Court of Principal Judge, Family Court, Kanpur Nagar.

7. The Principal Judge, Family Court, Jaunpur is directed to remit the record of Complaint Case No.549 of 2022 (Sumit Kumar Prajapati Vs. Anita Prajapati), under Section 9 of Hindu Marriage Act to the Court of Principal Judge, Family Court, Kanpur Nagar for its disposal.

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

Order Date :- 9.11.2023

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