

Court No. - 2

Case :- TRANSFER APPLICATION (CIVIL) No. - 789 of 2023

Applicant :- Smt. Shail Alias Vandana

Opposite Party :- Rajesh Kumar Agarwal Alias Sonu

Counsel for Applicant :- Jitendra Pal Singh Chauhan

Hon'ble Saral Srivastava,J.

Order on Order Sheet

As per office report dated 29.11.2023, service of notice upon the opp. party is confirmed. Therefore, service of notice upon the opp. party is deemed sufficient.

Order on Transfer Application

1. Heard learned counsel for the applicant.
2. The present transfer application has been filed by the applicant who is wife of the respondent/opp. party praying for transfer of Divorce Petition No.1256 of 2015 (Rajesh Kumar Agarwal Vs. Smt. Shail alias Vandana), under Section 13 of the Hindu Marriage Act, 1955, pending before the Court of Additional Principal Judge, Family Court, District Bareilly to the Court of Principal Judge, Family Court, District Bijnor.
3. It is contended by the learned counsel for the applicant that the applicant-wife has no source of income, on account of which she is dependent upon her parents and she along with her minor son is living with them at District Najibabad 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 Najibabad to Bareilly to contest the case instituted by opposite party at District Bareilly on each and every date. The distance between

District Bijnor to District Bareilly is about 250 Kms., therefore, in such circumstances, it is very difficult for the applicant to meet the expenses in travelling from District Bijnor to District Bareilly to contest the case instituted by opposite party on each and every date. Necessary averments in this respect have been made in paragraph nos.16 to 18 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 Bareilly, the applicant would suffer serious prejudice.

4. The respondent has neither put in appearance nor filed any counter affidavit. As the averments contained in the affidavit filed in support of the transfer application are un-rebutted, therefore, they are treated to be true.

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 Bareilly to District Bijnor in the interest of justice.

6. Accordingly, Divorce Petition No.1256 of 2015 (Rajesh Kumar Agarwal Vs. Smt. Shail alias Vandana), under Section 13 of the Hindu Marriage Act, 1955, pending before the Court of Additional Principal Judge, Family Court, District Bareilly is transferred to the Court of Principal Judge, Family Court, Bijnor.

7. The Additional Principal Judge, Family Court, Bareilly is directed to remit the record of Divorce Petition No.1256 of 2015 (Rajesh Kumar Agarwal Vs. Smt. Shail alias Vandana), under Section 13 of the Hindu Marriage Act, 1955 to the Court of Principal Judge, Family Court, Bijnor for its disposal.

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

Order Date :- 30.11.2023

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