

**Court No. - 2**

**Case :-** TRANSFER APPLICATION (CIVIL) No. - 612 of 2019

**Applicant :-** Smt. Archana @ Yashoda

**Opposite Party :-** Kanhaiya Alias Eklavya Singhal

**Counsel for Applicant :-** Amit, Avdhesh Narayan  
Tiwari, Awadhesh Prasad

**Hon'ble Saral Srivastava, J.**

**Order on Order Sheet.**

In view of the office report dated 29.01.2020, the service of notice upon opposite party is deemed to be sufficient.

**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 Suit No.2417 of 2018 (old Suit No.312 of 2016) (Kanhaiya alias Eklavya Singhal v. Smt. Archana alias Yashoda), under Section 9 of the Hindu Marriage Act pending in the court of Principal Judge, Family Court, District Kanpur Nagar to court of Principal Judge, Family Court, District Jalaun at Orai.
4. It is submitted by the learned counsel for the applicant that a proceeding Section 125 of Cr.P.C. has been instituted by the applicant against the opposite party at Orai, District Jalaun whereas opposite party has instituted the proceeding under

Section 9 of Hindu Marriage Act at Kanpur Nagar. He further submits that the applicant has a minor child, who is studying in Gurukulam Vatsalay School at Orai, whom she has to look after, and therefore, in this circumstances, it is very hard for her to travel alongwith her child to Kanpur Nagar to contest the case instituted by the opposite party. Necessary averments in this respect have been made in paragraphs 16 and 17 of the affidavit filed in support of the transfer application which is being reproduced hereinbelow:-

*"16. That the child Garv Singhal is weak in health and is often under the treatment of doctor on account of which, it is difficult for the applicant Smt. Archana who leave the child unattended and always cause difficulty in attending the cases outside at Orai.*

*17. That in the facts and circumstnaces, the differences between the parties is at very much at stake and opposite party is bent upon to harass the applicant alongwith his brother who is doing the necessary pairvi and accompanying the applicant to appear and look after in the cases at Kanpur in the Family Court Kanpur Nagar. The opposite party in order to harass and is playing all the tricks to oust the applicant to do the necessary pairvi and hence, the applicant and the deponent are under the apprehension that some un-towards incident may be planned against them and the cause some major incident which has been necessitated the present transfer application."*

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 Kanpur Nagar to District Jalaun at Orai.

7. Accordingly, the Suit No.2417 of 2018 (old Suit No.312 of 2016) (Kanhaiya alias Eklavya Singhal v. Smt. Archana alias Yashoda), under Section 9 of the Hindu Marriage Act pending in the court of Principal Judge, Family Court, District Kanpur Nagar is transferred to the court of Principal Judge, Family Court, District Jalaun at Orai.

8. The Principal Judge, Family Court, District Kanpur Nagar is directed to remit the record of Suit No.2417 of 2018 (old Suit No.312 of 2016) (Kanhaiya alias Eklavya Singhal v. Smt. Archana alias Yashoda), under Section 9 of the Hindu Marriage Act to the court of Principal Judge, Family Court, District Jalaun at Orai for its disposal.

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

**Order Date :-** 28.11.2023  
A.N. Mishra