

Court No. - 2

Case :- TRANSFER APPLICATION (CIVIL) No. - 936 of 2022

Applicant :- Smt. Reena Vishwakarma And Another

Opposite Party :- Anjani Kumar Vishwakarma

Counsel for Applicant :- Awadh Bihari Pandey

Counsel for Opposite Party :- Pt. Sita Ram Vishwakarma

Hon'ble Saral Srivastava,J.

1. Heard learned counsel for the applicants and learned counsel for the opposite party.

2. The present application has been filed by the applicant alongwith her minor son seeking transfer of Case No.22/70 of 2022 (Anjani Kumar Vishwakarma Vs. Smt. Reena Vishwakarma And Another), under Section 25 of Guardian and Wards Act, pending in the court of Principal Judge, Family Court, Banda to court of Principal Judge, Family Court, Kanpur Nagar.

3. It is submitted by the learned counsel for the applicant that two proceedings; one under Section 127 of Cr.P.C. and another under Sections 498A, 323, 504 and 506 I.P.C. & Section 3/4 of Dowry Prohibition Act have been instituted by the applicant against the opposite party at Kanpur Nagar whereas opposite party has instituted the proceeding under Section 25 of Guardian and Wards Act at Banda. It is submitted that applicant alongwith her minor son is residing with her aged parents at Kanpur Nagar and is totally dependent upon her aged parents. It is further submitted that distance between Kanpur Nagar to Banda is about 200 kilometre and applicant has no source of income to meet the litigation expenses and other expenses which is to be incurred in travelling from Kanpur Nagar to Banda alongwith her minor son to contest the case instituted by opposite party at Banda 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 Banda, applicant would suffer serious prejudice.

4. A counter affidavit has been filed on behalf of the opposite party

denying the averments made in the transfer application. It is further averred in paragraph 10 of the counter affidavit that opposite party is paying Rs.7,000/- per month as maintenance to the applicant, but he has not filed any material evidence in support of the said averment that he is continuously paying Rs.7,000/- per month as maintenance to the applicant. This Court may note that the applicant has also filed Transfer Application (Civil) No.24 of 2020 for transferring the case instituted by the opposite party under Section 13 of the Hindu Marriage Act which has been allowed by this Court vide order dated 04.03.2020.

5. 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 Banda to District Kanpur Nagar.

6. Accordingly, the Case No.22/70 of 2022 (Anjani Kumar Vishwakarma Vs. Smt. Reena Vishwakarma And Another), under Section 25 of Guardian and Wards Act, pending in the court of Principal Judge, Family Court, Banda is transferred to the court of Principal Judge, Family Court, Kanpur Nagar.

7. The Principal Judge, Family Court, Banda is directed to remit the record of Case No.22/70 of 2022 (Anjani Kumar Vishwakarma Vs. Smt. Reena Vishwakarma And Another), under Section 25 of Guardian and Wards 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 :- 27.10.2023

R.S. Tiwari