

Court No. - 2

Case :- TRANSFER APPLICATION (CIVIL) No. - 974 of 2023

Applicant :- Shubham Katiyar

Opposite Party :- Smt. Akansha Katiyar @ Richa And Another

Counsel for Applicant :- Qazi Wakil Ahmad

Hon'ble Saral Srivastava,J.

1. Heard learned counsel for the applicant.
2. The present transfer application has been filed by the applicant seeking transfer of Case No.956 of 2021 (Shubham Katiyar Vs. Smt. Akansha Katiyar @ Richa), under Section 13 of Hindu Marriage Act, pending before the court of IInd Additional Principal Judge, Family Court, Room No.2, Kanpur Nagar to any other competent court at Kanpur Nagar.
3. The record reveals that the applicant has already filed a transfer application bearing Civil Misc. Transfer Application No.287 of 2023 before the Principal Judge, Family Court, Kanpur Nagar which was rejected by Principal Judge, Family Court, Kanpur Nagar vide order dated 23.11.2023.
4. In the instant application, the applicant has not assailed the order of the Principal Judge, Family Court, Kanpur Nagar rejecting his transfer application. Once an order is passed by the competent court rejecting the transfer application and that is operating against the applicant, the applicant cannot seek transfer of the case without assailing that order. This Court in the case of ***Babu Singh and others Vs. Raj Bahadur Singh and others passed in Transfer Application (Civil) No.121 of 2021*** has held that an order rejecting the transfer application is revisable under Section 115 of C.P.C., therefore, in such view of the fact, the present transfer application is not maintainable.
5. Consequently, the Transfer Application is ***dismissed*** with liberty to the applicant to avail the appropriate remedy available in law.
6. Office is directed to return the certified copy of order dated 23.11.2023 to the learned counsel for the applicant after keeping the photocopy of the same on record.

Order Date :- 12.12.2023

Sattyarth