

Court No. - 17

Case :- TRANSFER APPLICATION (CIVIL) No. - 75 of 2022

Applicant :- Smt. Anju Singh

Opposite Party :- Ankur Singh

Counsel for Applicant :- Anil Kumar Tripathi, Sanjeev Singh, Yogendra Singh

Counsel for Opposite Party :- Sumit Kumar Srivastava

Hon'ble Alok Mathur, J.

1. Heard Sri Yogendra Singh, learned counsel for the applicant as well as Sri Sumit Kumar Srivastava, learned counsel appearing for the opposite party.

2. By means of present application under Section 24 of C.P.C. the applicant has prayed for transfer of regular Suit/Case No. 881 of 2020 - Ankur Singh Vs. Anju Singh, under Section 13 of Hindu Marriage Act, pending in the Court of Principal Judge Family Court, Ayodhya to the Court of competent jurisdiction at Basti.

3. It is submitted by learned counsel for the applicant that applicant and opposite party are husband and wife, they were married on 26.02.2019 as per Hindu rites and rituals. Subsequently, the opposite party and his family members started harassing the applicant for demand of dowry, due to which she left her matrimonial house and started living at Basti with her parents. At Basti the applicant has filed an application under Section 25 Cr.P.C. before the Judicial Magistrate for grant of maintenance, while on the other hand opposite party moved an application under Section 25 Cr.P.C. The applicant has also moved an application under Section 12 of Domestic Violence Act before the Judicial Magistrate seeking protection under the said Act.

4. It is next submitted by learned counsel for the applicant that as a retaliation to the applications moved by the applicant that opposite party filed Regular Suit No. 881 of 2020, under Section 13 of Hindu Marriage Act at Faizabad/Ayodhya.

5. It is further submitted by learned counsel for the applicant that applicant is a lady and it is difficult for her to travel on each date of hearing to Faizabad from Basti. The distance between two places is about 90 kilometers and also that she has no independent source of income and she is dependent upon her

parents for her financial needs and due to which she is unable to prosecute the case at Faizabad/Ayodhya.

6. Learned counsel for the opposite party on the other hand has opposed the transfer application. He has submitted that there is threat to life of opposite party at Basti. It is submitted that on one occasion brother of the applicant has abused and assaulted father of opposite party for which incident an application has been made to the Superintendent of Police, Basti and also that learned counsel for the opposite party at Basti has refused to appear for him and accordingly has withdrawn his vakalatnama and opposite party is facing much difficulty in finding an Advocate to contest the case at Basti.

7. Opposing the aforesaid contentions, learned counsel for the applicant submits that in the rejoinder affidavit two vakalatnamas have been filed in various cases being contested by the opposite party of Sri Rajesh Kumar Singh, Advocate. He has further submitted that with regard to protection being sought by the opposite party he has adequate remedy of moving an application before the Committee headed by the District Judge for providing protection to the witness/litigant as per direction of Hon'ble Supreme Court in the case of **Mahendra Chawla Vs. Union of India, (2019) 14 SCC 615**.

8. Heard learned counsel for the parties and perused the record.

9. It is noticed that on one hand the applicant who is the wife of opposite party is seeking transfer of suit of divorce filed by the opposite party from Faizabad to Basti, where applicant is living with her parents. The present application is being vehemently contested by the opposite party who has submitted that he has threat to his life at Basti and that no Advocate is willing to appear for him. This Court has given anxious consideration to the contentions raised by learned counsel for the parties.

10. Firstly, it is noticed that opposite party has already been represented in the cases where vakalatnama has been filed by ne Rajendra Kumr Singh, Advocate, subsequently on 29.10.2022, when the vakalatnama was withdrawn by Sri Sanjay Upadhyay. In the aforesaid circumstances, said ground is not made out as learned Advocates are already available at Basti to represent the opposite party. Second ground of threat to his life is raised by the opposite party and to establish the said ground only document annexed with the counter affidavit is a complaint dated 28.10.2022, where the complainant is father of opposite party who is alleged to have been assaulted by the brother of the applicant. There is no material which can indicate that opposite party has ever been assaulted or there is any threat

to his life or liberty at Basti from the relatives of the applicant.

11. At this point, learned counsel for the applicant has assured this Court that there will not be any threat to opposite party's life and liberty from the relatives of the applicant. This statement has been made after seeking instructions from the relatives of the applicant who are present in the Court.

12. This Court is also of the considered view that law in this regard has been laid down by Hon'ble Supreme Court in the case of **Mahendra Chawla (supra)**.

13. In the light of above, present application is **allowed**. Accordingly, Suit/Case No. 881 of 2020 - Ankur Singh Vs. Anju Singh, under Section 13 of Hindu Marriage Act, pending in the Court of Principal Judge Family Court, Ayodhya is transferred to the Court of competent jurisdiction at Basti.

14. Since serious apprehension of threat to life and liberty has been raised by the opposite party from the relatives of the applicant, it is provided that in case opposite party is able to demonstrate that on any date he has either been physically assaulted or there is real apprehension of such assault, he will be at liberty to approach this Court seeking transfer of aforesaid case from Basti to any other Court.

Order Date :- 13.10.2023

A. Verma

(Alok Mathur, J.)