

Court No. - 17

Case :- TRANSFER APPLICATION (CIVIL) No. - 131 of 2022

Applicant :- Smt. Akanksha Gupta

Opposite Party :- Principal Judge Family Court Lucknow And Anr.

Counsel for Applicant :- Anil Pandey

Hon'ble Alok Mathur,J.

1. As per office report dated 24.08.2022, respondent no. 2 has been personally served and accordingly service upon respondent no. 2 is sufficient.

2. By means of present transfer application under Section 24 of the CPC has sought transfer of Suit No. 2625 of 2021 - Arvind Kumar Gupta Vs. Smt. Akansha Gupta, under Section 13 of the Hindu Marriage Act, 1955, pending in the Court of Principal Judge, Family Court, Lucknow to the Court of competent jurisdiction at Deoria.

3. It has been submitted by learned counsel for the applicant that applicant was married to respondent no. 2 on 28.11.2013 as per Hindu rites and rituals at Lucknow. Subsequently, it is stated that soon after the marriage applicant was tortured and harassed for not getting sufficient dowry in the marriage. It is also stated that on account of harassment and torture the marital relationship between the applicant and respondent no. 2 became strained and as husband and in-laws of applicant used to torture the applicant mentally and physically, the applicant was forced out of her matrimonial house and she started living with her parents at Deoria.

4. It is next submitted by learned counsel for the applicant that respondent no. 2 filed a suit for divorce under Section 13 of the Hindu Marriage Act before Principal Judge, Family Court, Lucknow. It is also submitted that respondent no. 2 has threatened the applicant on various occasions due to which she apprehends that in case she goes to Lucknow to prosecute the case she will be physically harmed. It is also submitted that applicant has no independent source of income and she is dependant upon her parents for her financial needs and hence it is not possible for her to travel from Deoria to Lucknow on each date of hearing of the case. Thus, prayer for transfer of said case from Lucknow to Deoria has been made.

5. Learned counsel for the applicant has also relied upon the

case of **N.C.V. AISHWARYA versus A.S. SARAVANA KARTHIK SHA, 2022 Live law (SC) 627** specially on paragraph Nos. 9 and 10 which read as under:-

"9. The cardinal principle for exercise of power under Section 24 of the Code of Civil Procedure is that the ends of justice should demand the transfer of the suit, appeal or other proceeding. In matrimonial matters, wherever Courts are called upon to consider the plea of transfer, the Courts have to take into consideration the economic soundness of both the parties, the social strata of the spouses and their behavioural pattern, their standard of life prior to the marriage and subsequent thereto and the circumstances of both the parties in eking out their livelihood and under whose protective umbrella they are seeking their sustenance to life. Given the prevailing socioeconomic paradigm in the Indian society, generally, it is the wife's convenience which must be looked at while considering transfer.

10. Further, when two or more proceedings are pending in different Courts between the same parties which raise common question of fact and law, and when the decisions in the cases are interdependent, it is desirable that they should be tried together by the same Judge so as to avoid multiplicity in trial of the same issues and conflict of decisions."

6. Despite notice no one has put in appearance on behalf of respondent no. 2.

7. This Court has heard submissions of counsel for the applicant and perused the record. It is noticed that applicant and respondent no. 2 were married 28.11.2013. Subsequently, there are allegations of harassment and torture of applicant by respondent no. 2 due to insufficient dowry on account of which applicant was thrown out of her matrimonial home and she started living with her parents at Deoria. It is submitted that applicant has no independent source of income and she is totally dependant upon her parents. It is difficult for her to travel long distance from Deoria to Lucknow on each date of hearing before the Court concerned, apprehension of threat and physical assault has also been made and hence prayer has been made for transfer of said case from Lucknow to Deoria.

8. In view of above as well as in the light of judgment of Hon'ble Supreme Court in the case of N.C.V. AISHWARYA versus A.S. SARAVANA KARTHIK SHA, this Court is of the view that case deserves to be transferred from Lucknow to Deoria.

9. Accordingly, Suit No. 2625 of 2021 - Arvind Kumar Gupta Vs. Smt. Akansha Gupta, under Section 13 of the Hindu Marriage Act, 1955, pending before Principal Judge, Family

Court, Lucknow is transferred to the Court of competent jurisdiction at Deoria.

10. The transfer application stands **allowed**.

Order Date :- 17.11.2023

A. Verma

(Alok Mathur, J.)