

Court No. - 17

Case :- TRANSFER APPLICATION (CIVIL) No. - 153 of 2023

Applicant :- Anamika Gupta

Opposite Party :- Principal Judge, Family Court, Gonda And 2 Others

Counsel for Applicant :- Rajendra Kumar Rajbhar, Ramu Verma, Vijay Kumar Jaiswal

Counsel for Opposite Party :- Amit Chaudhary, Utkarsh

Hon'ble Alok Mathur, J.

1. Heard Sri Rajendra Kumar Rajbhar, learned counsel for the applicant as well as Sri Gaurav Chaudhary, Advocate holding brief of Sri Amit Chaudhary, learned counsel for private respondents.

2. Present application under Section 24 of C.P.C. has been filed seeking transfer of Suit No. 329 of 2023 - Umesh Chandra Gupta Vs. Anamika Gupta, under Section 9 of the Hindu Marriage Act, 1955, pending before Principal Judge, Family Court, Gonda to the Court of competent jurisdiction at Bareilly.

3. It is submitted by learned counsel for the applicant that applicant and respondent no. 3 (husband) were married on 07.02.2017 as per Hindu rites and rituals. In the marriage sufficient dowry has been given by the parents of applicant. Out of the wedlock one girl child is born. After marriage, the applicant came to know that her husband - respondent no. 3 is suffering from serious illness and this fact has been concealed by her in-laws to her parents. The respondent no. 3 and his family members started harassing her for demand of additional dowry and that a girl child is borne, the applicant was put to mental and physical torture by her husband and his family members. On account of which applicant was forced to quit her matrimonial home. Since then she is living with her parents at Bareilly.

4. It is next submitted by learned counsel for the applicant that when all efforts of applicant and her parents for reconciliation between the parties failed, the applicant decided to take divorce from respondent no. 2, for which she filed Suit No. 355 of 2023 - Anamika Gupta Vs. Umesh Chandra Gupta, before Principal Judge, Family Court, Bareilly. In retaliation, for harassment the respondent no. 3 filed Suit No. 329 of 2023 - Umesh Chandra

Gupta Vs. Anamika Gupta, under Section 9 of the Hindu Marriage Act, 1955 at Gonda. It is submitted that applicant being a lady and that she has to take care of a minor child, it is not possible for her to travel from Bareilly to Gonda on each date fixed for prosecuting the case pending before Principal Judge, Family Court, Gonda. Therefore, it is prayed, that the case pending at Gonda may be transferred to the Court of competent jurisdiction at Bareilly.

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. It is submitted by learned counsel appearing for private respondents that he has instructions that his clients have no objection in case Suit No. 329 of 2023 - Umesh Chandra Gupta Vs. Anamika Gupta, under Section 9 of the Hindu Marriage Act, 1955, pending before Principal Judge, Family Court, Gonda is transferred to the Court of competent jurisdiction at Bareilly.

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

8. From the above discussion it is evident that respondents have no objection in case the suit is transferred from Gonda to Bareilly.

9. In the light of above and also in the light of judgment of Hon'ble Apex Court in the case of **N.C.V. AISHWARYA versus A.S. SARAVANA KARTHIK SHA (supra)**, Suit No. 329 of 2023 - Umesh Chandra Gupta Vs. Anamika Gupta, under Section 9 of the Hindu Marriage Act, 1955, pending before Principal Judge, Family Court, Gonda is transferred to the Court of competent jurisdiction at Bareilly.

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

Order Date :- 12.12.2023

A. Verma

(Alok Mathur, J.)