

Court No. - 17

Case :- TRANSFER APPLICATION (CIVIL) No. - 171 of 2023

Applicant :- Arpita Sinha

Opposite Party :- Ayush Mohan

Counsel for Applicant :- Sandhya Dubey

Hon'ble Alok Mathur,J.

1. Heard Smt. Sandhya Dubey, learned counsel for the applicant.
2. Office report filed today indicates that opposite party has refused to accept the notice and consequently service on opposite party is deemed to be sufficient.
3. In the light of aforesaid this Court is proceeding to decide this case finally.
4. Present application under Section 24 of C.P.C. has been filed seeking transfer of Case No. 1652 of 2022 - Ayush Mohan Vs. Arpita Sinha, under Section 25 of Hindu Marriage Act, pending before Principal Judge, Family Court, Lucknow to the Court of competent jurisdiction at Bareilly.
5. It has been submitted by learned counsel for the applicant that applicant and opposite party are husband and wife who were married on 20.11.2000 according to Hindu rites and rituals. Shortly after marriage opposite party and his family members started abusing the applicant and making illegal demand of dowry and applicant was subsequently turned out of her matrimonial house. It is in the aforesaid circumstances the applicant started living with her parents at Bareilly. The applicant has lodged first information report under Sections 498-A, 323, 504 I.P.C. at Police Station - Prem Nagar, District - Bareilly. The opposite party has filed a suit under Section 13 of Hindu Marriage Act at Lucknow.
6. It is next submitted by learned counsel for the applicant that she has no independent source of earning and is dependent on her aged parents and it is not possible for her to travel from Bareilly to Lucknow on each date of hearing to prosecute the case. It is prayed that in the aforesaid circumstances, the aforesaid case may be transferred from Lucknow to Bareilly.

7. 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 socio-economic 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."

8. The application is accordingly **allowed**.

9. Case No. 1652 of 2022 - Ayush Mohan Vs. Arpita Sinha, under Section 25 of Hindu Marriage Act, pending before Principal Judge, Family Court, Lucknow stands transferred to the Court of competent jurisdiction at Bareilly.

Order Date :- 13.10.2023

A. Verma

(Alok Mathur, J.)