

Court No. - 18

Case :- MATTERS UNDER ARTICLE 227 No. - 5746 of 2023

Petitioner :- Amit Kumar

Respondent :- Addl. Principal Judge Iv, Family Court, Lko. And Another

Counsel for Petitioner :- Rohit Ranjan, Ashutosh Mishra

Hon'ble Saurabh Lavania, J.

Heard.

In view of the order proposed to be passed by this Court, notice to the private-respondents is dispensed with.

The present petition has been filed for the following main relief:-

"(i) to issue an order or direction to opposite party no. 1 to decide the case no. 1008/2023 (Amit Kumar Versus Smt. Shashi Kiran) u/s 13(i)(a) of Hindu Marriage Act, 1955, within stipulated period in the interest of justice."

It appears from the record that the petitioner preferred a suit under Section 13(1)(ia) of Hindu Marriage Act, 1955 (in short 'Act of 1955'), seeking dissolution of marriage in the year 2017 and at relevant time the case was registered as Case No. 1102/2017 (Amit Kumar Versus Shashi Kiran) and this case was transferred to Principal Judge, Family Court at Jaunpur in terms of order of this Court passed in Transfer Application (Civil) No. 164 of 2019 (Shashi Kiran Versus Amit Kumar) vide order dated 02.02.2022.

It further appears from the record that petitioner being aggrieved by the transfer of the case, approached the Hon'ble Apex Court and the Hon'ble Apex Court vide order dated 20.02.2023 passed in SLP(C) No. 9202 of 2022 (Amit Kumar Versus Shashi Kiran), considered the medical condition of petitioner, who is suffering from Adenocarcinoma, interfered in the matter and transfer the case from the court of Principal Judge, Family Court, Jaunpur to Principal Judge, Family Court, Lucknow. The order dated 20.02.2023 passed by the Hon'ble Apex Court, reads as under:-

"Leave granted.

It is clear from the evidence and material placed on record that the appellant - Amit Kumar is suffering from Adenocarcinoma. It is also stated that the appellant - Amit Kumar has resigned from his job and is residing with his family at Lucknow, Uttar Pradesh.

In view of the medical condition of the appellant - Amit Kumar, we allow the present appeal and set aside the impugned judgment transferring Case No. 1102/2017 under Section 13(1)(a) of the Hindu Marriage Act, 1955, titled "Amit Kumar vs. Shashi Kiran" prime prime from the Court of Principal Judge, Family Court, Lucknow, Uttar Pradesh to the Court of Principal Judge, Family Court, Jaunpur, Uttar Pradesh. In other words, the proceedings in the aforesaid divorce case will continue in the Court of

Principal Judge, Family Court, Lucknow, Uttar Pradesh. The respondent may appear through video Conferencing, if the said facility is available in the Court Principal Judge, Family Court, Lucknow, Uttar Pradesh.

The impugned judgment transferring the case is accordingly set aside and the appeal is allowed in the aforesaid terms."

It further appears that in terms of order of Hon'ble Apex Court, the case in issue initially instituted in the year 2017, is pending before respondent no.1/Additional Principal Judge IV, Family Court, Lucknow, as Case No. 1008/2023 (Amit Kumar Versus Smt. Shashi Kiran) and on account of pendency of the same, the petitioner, is suffering great hardship and mental agony.

Considering the aforesaid facts and circumstances of the case, this Court is of the opinion that no gainful purpose will be served in keeping the aforesaid petition pending. Accordingly, in the ends of justice the trial court is directed to consider and decide the divorce petition bearing Case No. 1008/2023 (Amit Kumar Versus Smt. Shashi Kiran), filed under Section 13(1) (ia) of the Hindu Marriage Act, 1955 most expeditiously, after affording full opportunity of hearing to the parties, but without granting any unnecessary adjournment to either of the parties preferably within a period of six months from the next date fixed before it, if there is no other legal impediment in this regard.

It is made clear that the Court has not examined the case of either of the parties on merits and the authority concerned shall be free to decide the matter strictly in accordance with law.

With the aforesaid, the petition is ***disposed of***.

Order Date :- 8.11.2023

Jyoti/-