

Court No. - 2

Case :- TRANSFER APPLICATION (CIVIL) No. - 700 of 2023

Applicant :- Minakshi Srivastava

Opposite Party :- Ratish S. Rudra

Counsel for Applicant :- Yash Pratap Singh, Birendra Singh

Hon'ble Saral Srivastava, J.

Order on Order Sheet.

In view of the office report dated 25.10.2023, the service of notice upon opposite party is deemed to be sufficient.

Order on Transfer Application.

1. Heard learned counsel for the applicant.
2. No one appears on behalf of the opposite party even in repeated calls.
3. The present application has been filed by the applicant-wife seeking transfer of Case No.2344 of 2022 (Ratish S. Rudra Vs. Minakshi Srivastava), under Section 10 of the Hindu Marriage Act pending in the court of Principal Judge, Family Court, District Varanasi to court of Principal Judge, Family Court, District Gorakhpur.
4. It is submitted by the learned counsel for the applicant that a proceeding Section 125 of Cr.P.C. has been instituted by the applicant against the opposite party at Gorakhpur whereas opposite party has instituted the proceeding under Section 10 of Hindu Marriage Act at Varanasi. It is submitted that applicant is residing with her aged parents at Gorakhpur and distance between Gorakhpur to Varanasi is about 200 kilometre and applicant has no source of income to meet the litigation expenses and other expenses which is to be incurred in travelling from Gorakhpur to Varanasi to contest the case instituted by opposite party at Varanasi on each and every date fixed in the matter. It is further submitted that financial condition of applicant is not good to do pairvi in the case. It is further submitted that no amount towards maintenance is being paid to the applicant by the opposite party. It is also submitted that balance of convenience also lay in favour of the

applicant, and if the case is allowed to be proceeded at Varanasi, applicant would suffer serious prejudice.

5. The opposite party has neither put in appearance nor filed any counter affidavit, therefore, the averments contained in the affidavit filed in support of the transfer application are unrebutted and they are being treated to be correct.

6. It is settled in law that convenience of wife is to be looked into in case of dispute between the husband and wife. Therefore, considering the hardship which is being by the applicant-wife, it is a fit case where this Court should exercise its power to transfer the case from District Varanasi to District Gorakhpur.

7. Accordingly, the Case No.2344 of 2022 (Ratish S. Rudra Vs. Minakshi Srivastava), under Section 10 of the Hindu Marriage Act pending in the court of Principal Judge, Family Court, District Varanasi is transferred to the court of Principal Judge, Family Court, Gorakhpur.

8. The Principal Judge, Family Court, Varanasi is directed to remit the record of Case No.2344 of 2022 (Ratish S. Rudra Vs. Minakshi Srivastava), under Section 10 of the Hindu Marriage Act to the court of Principal Judge, Family Court, Gorakhpur for its disposal.

9. The Transfer Application is ***allowed*** with no order as to costs.

Order Date :- 26.10.2023

Sattiyarth