

Court No. - 1

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Case :- TRANSFER APPLICATION (CIVIL) No. - 473 of 2021

Applicant :- Surendra Singh

Opposite Party :- Smt. Vineeta Singh

Counsel for Applicant :- Saurabh Tripathi, Lal Chandra Mishra

Hon'ble J.J. Munir, J.

This transfer application has been moved by the husband, seeking transfer of Matrimonial Case No. 682 of 2013, Surendra Singh vs. Smt. Vineeta Singh, under Section 13 of the Hindu Marriage Act, 1955 from the Principal Judge, Family Court, Hapur to the Court of competent jurisdiction at Banda or any other adjoining district.

Heard Mr. Lal Chandra Mishra, learned counsel for the applicant and Mr. Mukeem Ahmad, learned counsel appearing on behalf of the opposite party.

The applicant Surendra Singh and the opposite party, Smt. Vineeta Singh were married according to Hindu rites on 23.2.1999. The parties have turned an estranged couple and there is much litigation pending *inter partes*. The submission of Mr. Mishra, learned counsel for the applicant, is that proceedings sought to be transferred from district Hapur have been instituted by the opposite party with ill motive of harassing him. There is an assertion to this effect in paragraph no. 17 of the affidavit.

It is also urged that the applicant is not in a position to pursue the case at Hapur because he is currently posted at district Banda. He says that if the case is transferred from Hapur to Banda or to any other district neighbouring the district of Banda, he can conveniently pursue the case there. It is also made out that both parties can, with much convenience, pursue the case at Banda, because the opposite party also resides at

Rewa (M.P.) which adjoins Banda. On the other hand, it is pointed out by the learned counsel for the opposite party that proceedings, of which the applicant now seeks transfer from Hapur, were instituted by him before the Civil Judge (Junior Division), Hapur in the year 2013 and not by the wife. At the relevant time, he was posted at Hapur and has now been posted to Banda. Merely because the applicant has been transferred from Hapur to Banda, he cannot ask for transfer of this case.

This Court has considered the rival submissions and perused the record. It is true that the proceedings, sought to be transferred, were instituted by the applicant before the Court at Hapur and not by the opposite party. This Court is of opinion that merely because the husband has now been posted to a different station, the case cannot be transferred according to his convenience. Quite apart, there are a number of causes pending between parties before the Courts at Hapur. Complaint Case No. 2188 of 2019, under Section 498-A IPC etc. is pending before the Chief Judicial Magistrate, Hapur. Likewise, complaint Case No. 63 of 2019, under Section 12/14 of the Domestic Violence Act is pending before the Additional Chief Judicial Magistrate-I, Hapur. The applicant appears to have been posted at Hapur as a Tax Superintendent with the Nagar Nigam from 2009 to 2015. Now, he has been transferred to Banda. Another application under Section 125 Cr.P.C. has been moved by the wife before the Court at Rewa but that is not of much relevance. What cannot be denied is that two cases are pending *inter partes* at Hapur and the present proceedings were instituted by the applicant himself, while posted at Hapur. Three cases pending at Hapur would make it convenient for both parties to pursue all the three cases at Hapur, particularly, once the wife finds it to be convenient there. The wife's convenience requires to be particularly considered in matters of venue of proceedings in

matrimonial causes, while considering a transfer plea. Also, both parties can request the Courts at Hapur to fix an identical date in all the causes in order to enable both parties to attend and effectively defend there. The applicant's contention that this case should now be moved to Banda or some adjoining district of Banda, because he has been transferred from Hapur to Banda, seems to be very unacceptable as a ground for transfer.

This Court also notices that applications for transfer of Case No. 63 of 2019, under Section 12/14 of the Domestic Violence Act, being Transfer Application (Criminal) No. 190 of 2021 was rejected by this Court *vide* order dated 28.09.2021. Also, in Transfer Application (Criminal) No. 184 of 2021 preferred by the applicant, his prayer for transfer of Complaint Case No. 2188 of 2019, under Section 498-A etc. from Hapur to Banda was declined by this Court *vide* order dated 28.09.2021. The result is that two other cases would, in all events, be heard at Hapur. Therefore, there is, for this added reason, no good ground to transfer the present proceedings out of Hapur to Banda.

In the result, this application **fails** and is **rejected**.

Order Date :- 5.10.2021

Brijesh Maurya

(J.J. Munir, J.)

Note: Since my digital signature has expired and its renewal will take some time, the print out of the order has been taken and has been manually signed by us. This copy be uploaded with the stipulation as and when the digital signature is renewed or a fresh digital signature is obtained, the digital signature copy be uploaded after deleting the scanned copy.