

(2016) 01 RAJ CK 0005

In the Rajasthan High Court

Case No : Civil Transfer Application No. 128 of 2015

Smt. Jigyasa Gautam

APPELLANT

Vs

Gyan Prakash Gautam

RESPONDENT

Date of Decision : 20-01-2016

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 24

Citation : (2016) 1 DNJ 313

Hon'ble Judges : Veerendr Singh Siradhana, J.

Bench : Single Bench

Advocate : Rahul Kamwar, Advocate, for the Respondent

Final Decision : Allowed

Judgement

Veerendr Singh Siradhana, J. - The applicant-wife has instituted the present transfer application before this Court, with a prayer for transfer of the divorce proceedings instituted by the non-applicant husband, before the Family Court, Jhalawar to Family Court, Kota.

2. Learned counsel for the applicant-wife, reiterating the pleaded facts and grounds of the transfer application, argued that the marriage was solemnised at Kota and both the parties last resided at Kota, and therefore, the proceedings for divorce, instituted by the non-applicant-husband, ought to have been instituted before the Family Court, Kota, rather than Jhalawar.

3. It is further contended that on account of serious matrimonial discord and disputes between the parties; proceedings have been instituted by the applicant-wife for offence under Section 498A of Indian Penal Code. Another proceeding instituted claiming maintenance under Section 125 Cr.P.C., are also pending at Kota. So also the case, instituted for domestic violence, is pending at Kota, and therefore, no inconvenience will be caused to the non-applicant-husband, if the proceedings pending before the Family Court Jhalawar are transferred to Family Court, Kota.

4. In support of his submissions, the learned counsel for the applicant-wife has placed reliance on the opinion of the Hon''ble Supreme Court in the case of Rajni Kishor Pardeshi v. Kishor Babulal Pardeshi; 2005 (12) SCC 237 and Nishapriya v. R.J. Sathish Kumar; II (2014) DMC 97 (SC). Learned counsel would further submit that in the matters of the nature pending before the Courts in matrimonial disputes, the convenience of the wife is to be preferred as compared to that of the husband.

5. Having considered the facts, contents grounds of the transfer application and upon hearing the learned counsel for the parties as well as in view of law declared by the Hon''ble Supreme Court, I am of the considered opinion that the proceedings, instituted by the non-applicant-husband, pending before the Family Court, Jhalawar, needs to be transferred to Family Court, Kota.

6. Consequently, the transfer application succeeds and is hereby allowed.

7. It is ordered that the divorce petition No.38/2015 (Gyan Prakash Gautam v. Smt. Gigyasa Gautam), pending before the Family Court, Jhalawar, be transferred to Family Court, Kota.

8. Since both the parties are represented before this Court, through their respective counsel, no fresh notice needs to be issued to them.

9. The parties are directed to appear before the Family Court, Kota, on 26th February, 2016.