
(2013) 08 MP CK 0165
In the Madhya Pradesh High Court
Case No : MCC No. 1211 of 2008

Smt. Sakhi Bai

APPELLANT

Vs

Lakhan Lal Lodhi

RESPONDENT

Date of Decision : 12-08-2013

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 125, 24
Hindu Marriage Act, 1955 — Section 13(a)

Citation : (2013) 08 MP CK 0165

Hon'ble Judges : U.C. Maheshwari, J

Bench : Single Bench

Advocate : Prahalad Choudhary, for the Appellant; Bhoop Singh, Learned Counsel, for the Respondent

Final Decision : Allowed

Judgement

U.C. Maheshwari, J.—The applicant-defendant (wife of the respondent) has filed this petition u/s 24 of the CPC for appropriate direction to transfer the Hindu Marriage Case No. 10-A/2008, pending at the instance of respondent u/s 13(a) of Hindu Marriage Act 1955 in the Court of District Judge, Balaghat, from such court to some competent court at Jabalpur. As per averments of the petition, the applicant being married wife of the respondent on account of some matrimonial disputes between them is residing with her parental family at village Khireni, tahsil Panagar, District Jabalpur. It is also stated that she is hundred percent blind and not in a position to go anywhere without any support of attendant. As per further averments subsequent to her marriage with the respondent she was neglected and refused by the respondent to keep with him without any sufficient cause. Pursuant to that under compulsion, she is residing with her parental family. She has also filed some proceeding u/s 125 of the Cr.P.C. in some court at Jabalpur. In continuation, it is stated that on filing the aforesaid proceeding u/s 125 of Cr.P.C., the respondent has filed the petition u/s 13(a) of the Hindu Marriage Act for divorce against her in the court of District Judge, Balaghat. The same is pending but she being blind, so also in the lack of any source of earning

is not in a position to afford the expenses to go and attend the case in aforesaid Court of Balaghat and in such premises, prayed to transfer such case from the aforesaid court of Balaghat to the Court of District Judge, Jabalpur. The petition is further supported by affidavit, so also with the medical papers, summon and the copy of the petition filed by the respondent.

2. It is apparent fact on record that in last near about five years no reply of the petition has been filed on behalf of respondent and since 25.6.2008 in compliance of order of this court trial of the aforesaid case has been stayed.

3. It is settled proposition of law that in the matter of inconvenience and the difficulty in comparison of a male a woman is required more consideration. Keeping in view such position, on examining the case at hand, it is apparent that on account of some matrimonial dispute, the applicant is residing with her parental family in some village near Jabalpur and as per annexed medical papers she is blind and handicapped and is not in a position to go and attend the case at Balaghat on every date of hearing. Besides this, it appears that she has no source of income to afford the expenses of travelling to Balaghat. In such premises, so also in the lack of any rebuttal on behalf of respondent on record, I deem fit to transfer the aforesaid pending case from the above mentioned court of Balaghat to the Court of District Judge, Jabalpur. Accordingly this petition is allowed.

4. Pursuant to it, the aforesaid Hindu Marriage Case No. 10-A/2008 is hereby transferred from the aforesaid Court of District Judge, Balaghat to the Court of District Judge, Jabalpur with a further direction to the District Judge, Jabalpur to hold further trial of the case and decide the same on merits. The District Judge, Jabalpur shall be at liberty to make over the case to some other competent court under administrative powers.

5. The parties are directed to appear before the District Judge, Jabalpur, firstly on 23.9.2013 and also on other dates as are fixed by such court in that regard.

6. Let a copy of this order be immediately sent to aforesaid both the courts, i.e. District Judge, Balaghat as well as District Judge, Jabalpur for its compliance. C.c. as per rules.