

2024 SCC OnLine SC 88

In the Supreme Court of India

(BEFORE HIMA KOHLI AND AHSANUDDIN AMANULLAH, JJ.)

Shama Sharma ... Petitioner;

Versus

Kishan Kumar ... Respondent.

Transfer Petition (Civil) No. 1957 of 2023

Decided on January 10, 2024

Advocates who appeared in this case :

For Petitioner(s) Mr. Aniket Jain, Adv.

Mr. Vidyut Kayarkar, Adv.

Mr. Umang Shankar, AOR

For Respondent(s)

ORDER

1. The petitioner-wife has filed the present petition under Section 25 of the Civil Procedure Code, 1908 seeking transfer of a petition for restitution of conjugal rights filed by the respondent-husband under Section 9 of the Hindu Marriage Act, 1955, bearing CM No. 136 of 2023, titled "*Kishan Kumar v. Shama Sharma*" pending before the Principal Judge, Family Court, Sri Ganga Nagar, Rajasthan to a Court of competent jurisdiction at Faridkot, Punjab.

2. On 29th November, 2023 this Court had noted that none has entered appearance on behalf of the respondent-husband. In view of the statement made by learned counsel for the petitioner-wife that the parties were referred to mediation, but could not arrive at a settlement, it was deemed appropriate to await the presence of the respondent-husband. We had also directed that both the parties should appear virtually on the next date of hearing.

3. Learned counsel for the petitioner-wife states that she has given a written intimation of the order passed on 29th November, 2023 to the respondent-husband through speed post as well as whatsapp, but he has not responded.

4. None is present on behalf of the respondent-husband even today.

5. In view of the above, we deem it appropriate to allow the petition and direct transfer of the petition bearing CM No. 136 of 2023, titled "*Kishan Kumar v. Shama Sharma*" pending before the Principal Judge, Family Court, Sri Ganga Nagar, Rajasthan to a Court of competent jurisdiction at Faridkot, Punjab.

6. The records of the case be transferred forthwith to the transferee Court.

7. Further, liberty is granted to the respondent-husband to move an appropriate application before the transferee Court for permission to participate in the proceedings virtually. If such a request is made, the transferee Court may grant such permission and direct the personal presence of the respondent-husband only when it is absolutely necessary. Further, if examination of outstation witnesses is required and a request is made for recording the evidence through a Court Commissioner, the transferee Court shall consider the same and pass appropriate orders.

8. The Transfer petition is allowed.

9. Pending applications are disposed of.

10. Before parting with this matter, we have noted with surprise that the caste of both the parties has been mentioned in the memo of parties, besides their other details. Learned counsel for the petitioner submits that if the memo of parties as filed before the courts below is changed in any manner, the Registry raises an objection and in the present case as the caste of both the parties was mentioned before the court below, he had no option but to mention their caste in the Transfer Petition.

11. We see no reason for mentioning the caste/religion of any litigant either before this Court or the courts below. Such a practice is to be shunned and must be ceased forthwith. It is therefore deemed appropriate to pass a general order directing that henceforth the caste or religion of parties shall not be mentioned in the memo of parties of a petition/proceeding filed before this Court, irrespective of whether any such details have been furnished before the courts below. A direction is also issued to all the High Courts to ensure that the caste/religion of a litigant does not appear in the memo of parties in any petition/suit/proceeding filed before the High Court or the Subordinate Courts under their respective jurisdictions.

12. The above directions shall be brought to the notice of the members of the Bar as well as the Registry for immediate compliance. A copy of this order shall be placed before the Registrar concerned for perusal and for circulation to the Registrar Generals of all the High Courts for strict compliance.
