

THE HIGH COURT OF MADHYA PRADESH
MCC-946-2020
(SMT. GARIMA Vs ANIL SHARMA)

Gwalior, Dated : 22/02/2021

Shri Prateep Visoriya, learned counsel for the applicant.

Shri I.S. Asthana, learned counsel for the respondent.

Heard the learned counsel for the parties.

This Misc. Civil Case under Section 24 of the Code of Civil Procedure has been filed by the applicant for transferring the Civil Suit No. 228/2019 instituted by the respondent pending before the Court of the Principal Judge, Family Court, Morena, to the Family Court Datia.

It is submitted by learned counsel for the applicant that applicant is the wife of respondent and is the resident of Datia. She has filed this MCC for transfer of Civil Suit No.228/2019 from Family Court, Morena to Family Court, Datia. It is further submits that three other cases with regard to matrimonial proceedings are also pending before the Family Court, Datia. Counsel for the applicant submits that the applicant, being a wife, is having one minor child, therefore, there is inconvenience to attend the Court of Morena, which is approximately 150 Kms. It is submitted that there is difficulty for the applicant in coming again and again attending the proceedings of the Court. He submits that he has relied upon the

THE HIGH COURT OF MADHYA PRADESH

MCC-946-2020

(SMT. GARIMA Vs ANIL SHARMA)

judgment passed by Hon'ble Supreme Court in the case of **Sumita Singh Vs. Kumar Sanjay and another** reported in **AIR 2002 SC 396** wherein the Hon'ble Supreme Court has held that:-

“3. It is the husband's suit against the wife. It is the wife's convenience that, therefore, must be looked at. The circumstances indicated above are sufficient to make the transfer petition absolute.”

and has prayed that the Civil Suit No.228/2019 pending before the Court of the Principal Judge, Family Court, Morena to the the Family Court, Datia.

Learned counsel for the respondent/husband has opposed the application stating that no difficulty is being pointed out in the entire petition by the wife merely saying that the applicant is having one minor child. It is not a good reason for transferring the case. He submits that he will make all necessary arrangements and is ready to make payments towards the traveling allowance of wife and child.

Heard the learned counsel for the parties and perused the record.

From the perusal of the record, it is seen that the husband has filed an application under Section 13 of HMA seeking divorce from wife. On earlier occasion, certain complaints made by the applicant

THE HIGH COURT OF MADHYA PRADESH

MCC-946-2020

(SMT. GARIMA Vs ANIL SHARMA)

against the respondent, in a consequence, three other cases are pending consideration before the Court at Datia. The convenience of the wife is required to be seen in case. The application seeking divorce is filed by the husband as has been held by the Hon'ble Supreme Court in **Sumita Singh supra's case**.

Taking into consideration the aforesaid mentioned facts, this Court deems it appropriate to direct for transfer of Civil Suit No.228/2019 pending before the Court of the Principal Judge, Family Court, Morena, to the Family Court, Datia. The petition is **allowed and disposed of**.

C.C. as per rules.

(Vishal Mishra)
JUDGE

LJ*