

HIGH COURT OF JAMMU AND KASHMIR AT JAMMU

CTA no. 4/2011
CMA no. 4/2011

Date of order: 23.11.2012

Nasreen Akhtar and anr v. Basharat Hussain

Coram:

Hon’ble Mr. Justice M. M. Kumar, Chief Justice

Appearing counsel:

For the Petitioner(s) Mr. S. H. Rather, Advocate.

For the respondent(s) None.

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| i) | Whether to be reported in
Press, Journal/Media | : | Yes/No |
| ii/ | Whether to be reported in
Digest/ Journal | : | Yes/No |
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M. M. Kumar, CJ

1. The instant petition under Section 24 of the Code of Civil Procedure, 1977 has been filed by the petitioners for transferring the civil suit titled Basharat Hussain v. Nasreen Akhtar and ors, pending in the court of Munsiff Mendhar to any Court of competent jurisdiction at Poonch. It is pertinent to mention that the respondent has sought the relief of restitution of conjugal rights with petitioner no.1 and permanent prohibitory injunction against the other defendants from causing any sort of interference with the matrimonial life of the respondent and petitioner no.1.

2. Brief facts of the case, as disclosed in the instant petition, are that while being a minor, petitioner no.1 was married to the

respondent on 10.01.2004, however, when she attained majority she refused to accept the marriage contract because it was not with her consent. The respondent insisted the petitioner no.1 to reside with him but the petitioner no.1 did not reside with the respondent. The respondent has filed the suit for restoration of conjugal rights in the Court of learned Munsiff Mendhar, whereas the petitioner no.1 is staying with her father at village Shindra Tehsil Haveli which is far away from Mendhar where the suit has been filed. She has stated that she is not in a position to attend the hearing at Mendhar, which is at a far away distance and if the matter is transferred to Poonch then she would be able to conveniently attend the hearing and defend the suit.

3. Respondent, although served, has not filed any objections nor has anybody put in appearance on his behalf when this petition was taken up for consideration.

4. I have heard learned counsel for the petitioner and have perused the record.

5. It has come on record that the petitioner is living with her father at village Shindra Tehsil Haveli. The suit for restitution of conjugal rights has been instituted at Mendhar which is a far off place and the petitioner no.1 being a student, cannot be compelled to defend the case at such a far off place.

7. As a sequel to the above discussion, this petition succeeds. The proceedings in case titled Basharat Hussain v. Nasreen Akhtar and ors, pending in the court of Munsiff Mendhar, are ordered to be transferred to the Court of Principal District Judge Poonch. Registry to transfer the record of the case to the Principal District Judge Poonch, who shall assign the case to a court of competent jurisdiction at Poonch.

8. Parties are directed to appear before transferee Court on 27.12.2012.

(M. M. Kumar)
Chief Justice

JAAMU:
23.11.2012
Anil Raina, Secy.