2026:AHC:199410

HIGH COURT OF JUDICATURE AT ALLAHABAD

TRANSFER APPLICATION (CIVIL) No. - 958 of 2025

Nidhi

…..Applicant(s)

Versus

Mohit Kumar

…..Opposite Party(s)

Counsel for Applicant(s) : Avinash Pandey
Counsel for Opposite Party(s) : Manu Saxena

AFR

Court No. - 35

HON'BLE DR. YOGENDRA KUMAR SRIVASTAVA, J.

Heard Sri Avinash Pandey, learned counsel for the applicant and Sri Manu Saxena, learned counsel appearing for the opposite party.

2. The present application has been filed seeking transfer of Case No. 431 of 2024 (Mohit Kumar v. Nidhi), under Section 13 of the Hindu Marriage Act, 1955, pending before the Principal Judge, Family Court, Shamli, to a court of competent jurisdiction at Muzaffar Nagar.

3. The prayer for transfer is principally founded on the ground that the applicant has no independent source of income and is dependent upon her father, who is an ex-serviceman. It is further stated that proceedings under Section 144 of the Bharatiya Nagarik Suraksha Sanhita, 2023 are pending before the court of competent jurisdiction at Muzaffar Nagar.

4. Learned counsel appearing for the opposite party has opposed the prayer for transfer. It is submitted that the proceedings are sought to be transferred from Shamli to Muzaffar Nagar, which had earlier formed

part of the same district, and that the two places are geographically proximate. It is further submitted that the circumstances pleaded by the applicant do not disclose any substantial hardship so as to warrant exercise of the power under Section 24 of the Code of Civil Procedure.

5. The question which arises for consideration is whether the circumstances pleaded by the applicant constitute sufficient ground for exercise of the discretionary jurisdiction under Section 24 CPC to transfer the matrimonial proceedings from Shamli to Muzaffar Nagar.

6. Section 24 CPC confers a discretionary power of transfer upon the Court. The power is intended to advance the interest of justice and is required to be exercised upon consideration of the facts and circumstances of each case. The Court, while considering a prayer for transfer, is required to assess whether the circumstances pleaded disclose genuine hardship, substantial inconvenience, prejudice or any other circumstance having sufficient bearing upon the fair and proper adjudication of the proceedings.

7. Convenience is undoubtedly a relevant consideration, particularly in matrimonial proceedings. At the same time, the convenience of the applicant cannot be considered in isolation. The Court is required to balance the competing considerations and take into account, where relevant, the convenience of both parties, the convenience of witnesses, the nature of the proceedings and evidence, the distance between the existing and proposed forums and the circumstances in which the proceedings are required to be conducted.

8. The power under Section 24 CPC is thus not to be exercised merely because another forum may be comparatively more convenient to one of the parties. The circumstances must disclose such substantial hardship or prejudice as would make continuation of the proceedings at the existing forum inconsistent with the interest of justice or materially impede the effective participation of the concerned party in the proceedings.

9. In matrimonial proceedings, the convenience of the wife is a relevant consideration and is required to receive due attention. Such consideration, however, does not dispense with an examination of the particular circumstances of the case. There is no absolute rule that a matrimonial proceeding is liable to be transferred merely upon the wife expressing greater convenience in conducting the proceedings at another place. The Court must determine whether the circumstances placed before it furnish a sufficient basis for exercise of the discretionary power of transfer.

10. The aforesaid principles are also consistent with the view taken by this Court in **Smt. Anjana Rana v. Navin Singh**[1]**,** wherein, while considering the scope of the power of transfer under Section 24 CPC, the Court emphasized that the power is discretionary and is not to be exercised mechanically merely on the ground of inconvenience or preference of one party. The circumstances relied upon must have sufficient weight to demonstrate genuine hardship or that continuance of the proceedings at the existing forum would adversely affect the fair and proper administration of justice.

11. In the context of matrimonial proceedings, the aforesaid principle has been further elucidated in **Smt. Taruni Tripathi v. Duresh Tripathi**[2], wherein the Court held that the convenience of the wife is not an inflexible rule and that the factors bearing upon the competing hardship of the parties are required to be considered cumulatively. The same approach is reflected in **Sadhna Singh v. Mrityunjay Singh**[3], and **Smt. Priyanka Maheshwari v. Vaibhav Maheshwari**[4], wherein the Court emphasized that mere convenience, including that of the wife, would not by itself justify transfer in the absence of circumstances demonstrating genuine hardship, prejudice or failure of justice.

12. In the present case, the applicant has stated that she has no independent source of income and is dependent upon her father. No

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1 2026 (2) ADJ 228
2 2026: AHC: 192394
3 2026: AHC:173971
4 2026 (4) AWC 4078

further material has been placed before the Court to demonstrate that such financial dependence makes it substantially difficult for her to participate in the proceedings before the Family Court at Shamli. Mere absence of an independent source of income, without circumstances demonstrating the nature and extent of the resulting hardship, cannot by itself constitute sufficient ground for transfer.

13. The applicant has also relied upon the pendency of proceedings under Section 144 BNSS at Muzaffar Nagar. The mere pendency of such proceedings, however, does not by itself establish any impediment to the applicant's participation in the matrimonial proceedings at Shamli. No material has been placed before the Court to demonstrate that the applicant's presence in the proceedings at Muzaffar Nagar is required in such a manner as would materially interfere with her ability to attend the proceedings before the Family Court at Shamli.

14. It is also significant that the proceedings are sought to be transferred from Shamli to Muzaffar Nagar, which are geographically proximate. No material has been placed before the Court demonstrating any substantial difficulty in travelling between the two places. The applicant has also not demonstrated any circumstance which would render her unable to effectively participate in the proceedings at Shamli.

15. The Court is conscious that a prayer for transfer in matrimonial proceedings cannot be examined solely from the standpoint of geographical distance. The ultimate consideration remains whether the circumstances pleaded, viewed cumulatively, disclose such hardship or prejudice as would justify displacement of the proceedings from the forum before which they are pending. In the present case, the circumstances relied upon by the applicant, considered cumulatively, do not disclose any such substantial hardship or prejudice.

16. The principles governing exercise of jurisdiction under Section 24 CPC may, therefore, be stated thus: while convenience of a party is a relevant consideration in an application for transfer, particularly in matrimonial proceedings, transfer is not warranted merely upon a plea of

comparative convenience. The applicant must place before the Court circumstances of sufficient weight demonstrating substantial hardship, prejudice or an impediment to effective participation in the proceedings, and the Court must balance such circumstances against the convenience and interests of the opposite party and the proper administration of justice.

17. Applying the aforesaid principles to the facts of the present case, this Court finds no sufficient ground to exercise the discretionary power under Section 24 CPC. The applicant has failed to demonstrate any circumstance which would materially prejudice her ability to participate in the proceedings before the Family Court at Shamli or otherwise render continuation of the proceedings at the existing forum contrary to the interest of justice.

18. The application lacks merit and is, accordingly, dismissed.

(Dr. Yogendra Kumar Srivastava,J.)

September 22, 2026
Imroz

Digitally signed by :-
MOHAMMAD IMROZ KHAN
High Court of Judicature at Allahabad