



2026:AHC:173971

HIGH COURT OF JUDICATURE AT ALLAHABAD
TRANSFER APPLICATION (CIVIL) No. - 499 of 2026

Sadhna Singh

.....Applicant(s)

Versus

Mrityunjay Singh

.....Opposite Party(s)

Counsel for Applicant(s)	:	Debee Shanker Pandey, Manju Singh, Shivendra Nath Singh
Counsel for Opposite Party(s)	:	

A.F.R.

Court No. - 35

HON'BLE DR. YOGENDRA KUMAR SRIVASTAVA, J.

Heard Sri Shivendra Nath Singh, learned counsel for the applicant and perused the record.

2. The present transfer application has been preferred by the applicant, invoking the jurisdiction of this Court under Section 24 of the Code of Civil Procedure, 1908, seeking transfer of Case No. 669 of 2024, *Mrityunjay Singh Vs. Sadhna Singh*, instituted by the opposite party under Section 13 (A) of the Hindu Marriage Act, 1955, and pending before the learned Additional Principal Judge/Family Court, Ballia, to a court of competent jurisdiction at Varanasi.

3. The case of the applicant, as disclosed from the averments contained in the affidavit filed in support of the transfer application, is that her marriage with the opposite party was solemnised on 13.12.2023 according to Hindu rites and rituals. It is alleged that substantial dowry was given by her family at the time of marriage and that, notwithstanding the same, further demands were raised by the opposite party and his family members. The applicant has further alleged that, upon failure to fulfil such demands, she was subjected to harassment and physical assault.

4. It is further stated that, during the subsistence of the matrimonial relationship, the opposite party instituted Case No. 669 of 2024, *Mrityunjay Singh Vs. Sadhna Singh*, under Section 13 (A) of the Hindu Marriage Act, 1955, seeking dissolution of the marriage before the learned Family Court, Ballia. According to the applicant, she was initially unaware of the institution of the aforesaid proceeding and, upon subsequently coming to know of the same, entered appearance and filed her objection on 04.09.2025.

5. The principal circumstance relied upon by the applicant in support of the prayer for

transfer is her present employment and residence at Varanasi. It has been stated that, pursuant to an offer letter dated 07.03.2024 issued by the Special Programme Management Unit, Hindu National Health Mission, Uttar Pradesh, the applicant joined as a Contract Staff Nurse and was posted at the Community Health Centre, Sarnath, District Varanasi. According to the applicant, she has since been residing at Varanasi and discharging her professional duties there.

6. The applicant has further stated that the matrimonial discord between the parties has given rise to various proceedings at Varanasi. According to the pleadings, she has instituted proceedings under Section 144 of the Bharatiya Nagarik Suraksha Sanhita, 2023, registered as Case No. 1672 of 2025 before the learned Principal Judge, Family Court, Varanasi; proceedings under Section 12 of the Protection of Women from Domestic Violence Act, 2005, registered as Case No. 4809 of 2025 before the learned Civil Judge (Junior Division), Varanasi; and has also lodged Case Crime No. 33 of 2026 at Police Station Sarnath, District Varanasi, under Sections 85, 115(2), 352, 74 and 351(3) of the Bharatiya Nyaya Sanhita, 2023 and Sections 3/4 of the Dowry Prohibition Act.

7. It is the specific case of the applicant that the aforesaid proceedings are pending at Varanasi and that she is required to attend and pursue them while simultaneously discharging her duties as a contractual Staff Nurse. It is contended that requiring her to travel from Varanasi to Ballia to contest the matrimonial proceeding instituted by the opposite party would cause her serious difficulty and hardship. The applicant has also stated that she is residing separately and has no one to accompany or assist her in undertaking such travel.

8. It is on the aforesaid grounds that the applicant seeks transfer of Case No. 669 of 2024 from the Family Court at Ballia to a court of competent jurisdiction at Varanasi. The prayer for transfer is founded principally upon her present place of employment and residence, the pendency of other proceedings at Varanasi, and the hardship which, according to her, would be occasioned in travelling to Ballia to contest the matrimonial proceeding.

9. Before examining the merits of the claim, it would be apposite to notice the principles governing the exercise of jurisdiction under Section 24 of the Code of Civil Procedure, 1908. The power of transfer conferred under the said provision is discretionary in nature and is required to be exercised judicially, having regard to the facts and circumstances of each case. The provision does not confer an absolute right upon either party to seek transfer of a proceeding merely by establishing personal inconvenience. The Court must be satisfied that the circumstances placed before it justify a departure from the forum in which the proceeding has been instituted.

10. The exercise of jurisdiction under Section 24 CPC necessarily requires a balanced and pragmatic assessment of the circumstances relevant to the proceeding. The Court

is required to consider not merely the convenience of the party seeking transfer, but also the convenience and legitimate interests of the opposite party, the nature of the proceedings, the stage at which the litigation stands, the forum where the proceeding was instituted, and all other circumstances having a bearing upon the fair, effective and expeditious adjudication of the dispute. No single consideration can ordinarily be regarded as determinative; the question has to be examined upon an overall assessment of the circumstances placed before the Court.

11. In matrimonial matters, however, the circumstances in which a wife is placed may, in a given case, be materially different from those ordinarily arising in civil litigation. The Court is, therefore, required to give due consideration to the practical difficulties which may be faced by a wife in contesting matrimonial proceedings at a place distant from her present residence, particularly where the proceeding has been instituted by the husband at a place other than that where the wife resides. This, however, does not dispense with the requirement of a judicial assessment of the circumstances of the individual case. The convenience of the wife is an important consideration, but it has to be weighed along with the other relevant circumstances and the corresponding inconvenience, if any, to the opposite party.

12. Thus, while considering a transfer application arising out of a matrimonial dispute, the following factors, amongst others, may ordinarily assume relevance:—

- (a) the economic condition and earning capacity of the parties, namely, the husband and the wife;
- (b) the social circumstances and standing of the wife and the extent of her dependency upon her parents or other family members;
- (c) the custody and care of any minor children involved in the matrimonial dispute;
- (d) the education and welfare of such children, where applicable;
- (e) the physical well-being and condition of the parties;
- (f) the nature and number of pending litigations between the parties, including civil, matrimonial and criminal proceedings;
- (g) the place of residence of the wife and its accessibility to the court where the proceeding is pending; and
- (h) the availability of convenient and reasonably accessible modes of transportation and commuting facilities.

13. The aforesaid factors are illustrative and not exhaustive. Their relevance and weight would necessarily depend upon the facts and circumstances of each case. The Court is required to undertake a cumulative assessment of the circumstances and

determine whether continuation of the proceeding at the existing forum would occasion genuine, substantial or disproportionate hardship to the party seeking transfer, or otherwise render such continuation unjust or oppressive. The ultimate consideration remains whether transfer of the proceeding is warranted in the interest of justice.

14. It is equally well settled that mere inconvenience, or the necessity of travelling from one place to another, cannot by itself constitute a sufficient ground for transfer. Some degree of inconvenience is inherent in litigation and cannot invariably be equated with denial of justice. The inconvenience relied upon must be real and substantial and must be supported by circumstances demonstrating that continuation of the proceeding at the existing forum would cause undue hardship or substantial prejudice. A general, vague or conjectural assertion of inconvenience would not ordinarily justify exercise of the discretionary power under Section 24 CPC.

15. At the same time, the Court would not insist upon proof of an absolute impossibility of attending or contesting the proceedings. What is required is a meaningful and realistic assessment of whether, in the particular circumstances of the case, the burden imposed upon the party seeking transfer is of such a nature and degree that continuation of the proceeding at the existing forum would operate unfairly or cause substantial prejudice. The discretion under Section 24 CPC must, therefore, be exercised upon a judicious balancing of the competing considerations, keeping in view the peculiar facts of the case, rather than on the basis of any inflexible or mechanical rule.

16. Tested on the aforesaid principles, this Court is of the considered view that the circumstances brought on record by the applicant, considered cumulatively, do not make out a case warranting transfer of the matrimonial proceeding from Ballia to Varanasi.

17. The applicant's employment and residence at Varanasi are undoubtedly relevant considerations. The offer letter dated 07.03.2024 shows that she joined as a Contract Staff Nurse and is presently posted at the Community Health Centre, Sarnath, Varanasi. Her professional obligations, therefore, deserve due consideration. At the same time, no material has been placed on record to show that her employment prevents her from attending the proceedings at Ballia, that leave or duty adjustment cannot be obtained, or that her employment would be adversely affected by such attendance. Employment at Varanasi, by itself, cannot consequently be regarded as sufficient ground for transfer.

18. The pendency of other proceedings at Varanasi is also a relevant circumstance. The applicant has referred to proceedings under Section 144 of the Bharatiya Nagarik Suraksha Sanhita, 2023, proceedings under Section 12 of the Protection of Women from Domestic Violence Act, 2005, and the criminal case arising from the First

Information Report lodged at Police Station Sarnath. However, there is no material to indicate any actual or unavoidable conflict between the dates fixed in those proceedings and the matrimonial proceeding at Ballia, or that the applicant has, in fact, been unable to participate in the latter on account of her engagement in the proceedings at Varanasi. The mere pendency of multiple proceedings at Varanasi, therefore, does not establish such hardship as would justify transfer.

19. The applicant has also relied upon the fact that she resides separately and has no one to accompany or assist her in travelling to Ballia. While this circumstance is relevant, there is no further material demonstrating any specific impediment to such travel. Likewise, the allegations of dowry demand, harassment and physical assault, though serious, cannot be adjudicated in the present proceedings. In the absence of any material disclosing a specific or credible apprehension to the applicant's safety in travelling to or appearing before the Family Court at Ballia, those allegations, by themselves, cannot furnish sufficient ground for transfer.

20. The distance between Varanasi and Ballia and the inconvenience and expenditure involved in travelling are also matters which have been considered. However, there is no material to demonstrate that Ballia is so inaccessible from Varanasi, or that the available modes of transport are so inadequate, as to render the applicant's attendance at the proceedings practically unfeasible. Mere inconvenience or additional travel cannot, without circumstances demonstrating exceptional hardship, be treated as sufficient to displace the existing forum.

21. It is also relevant that the matrimonial proceeding was instituted by the opposite party at Ballia and, according to the applicant herself, the marriage was solemnised there and the matrimonial home is situated there. The choice of forum is not conclusive and does not confer an indefeasible right upon the opposite party to have the proceeding continued at Ballia. Nevertheless, it is a relevant consideration which has to be weighed against the hardship pleaded by the applicant. On the material placed before the Court, the hardship pleaded does not outweigh this consideration.

22. The Court is conscious that the convenience of the wife is an important consideration in matrimonial transfer matters. Its weight, however, depends upon the circumstances of the individual case. Here, the applicant is employed at Varanasi; no minor children are stated to be in her custody; no physical condition or other circumstance materially impeding travel has been brought on record; and there is no material to establish financial incapacity or inability to engage counsel at Ballia. Equally, there is no order of the Family Court requiring her personal presence on every date, nor any material showing that a request for exemption from personal appearance or other appropriate accommodation has been made and declined.

23. Upon a cumulative assessment, therefore, the circumstances relied upon by the applicant establish, at the highest, the comparative convenience of contesting the

matrimonial proceeding at Varanasi. They do not disclose genuine and substantial hardship, actual prejudice, unavoidable conflict of proceedings, credible apprehension to her safety, or any other circumstance which would render her participation in the proceeding at Ballia impracticable or substantially prejudicial. The threshold for exercise of the discretionary power under Section 24 CPC is, accordingly, not satisfied.

24. The power under Section 24 CPC is, therefore, not to be exercised merely because one party finds another forum more convenient. The Court is required to balance the inconvenience pleaded by the party seeking transfer against the legitimate interest of the opposite party in having the proceeding continued at the forum where it was instituted. Though the relevant circumstances are required to be considered cumulatively, the overall assessment must disclose genuine and substantial hardship, prejudice, or some other circumstance rendering continuation of the proceeding at the existing forum unjust or oppressive.

25. In the present case, the applicant's employment and residence at Varanasi, the pendency of connected proceedings there, and the inconvenience involved in travelling to Ballia have all been taken into consideration. However, these circumstances, even when considered cumulatively, do not disclose any exceptional impediment or substantial prejudice. There is no material indicating any actual prejudice, credible threat to safety, financial incapacity, unavoidable conflict of dates, or any other circumstance which would render the applicant's participation in the proceedings at Ballia impracticable or unduly oppressive. The mere fact that the applicant would find it more convenient to contest the proceeding at Varanasi, therefore, cannot constitute sufficient ground for exercise of the power of transfer under Section 24 CPC.

26. Upon a holistic consideration of all the relevant circumstances, this Court is of the considered opinion that no case has been made out for transferring Case No. 669 of 2024 from the Family Court, Ballia to a court of competent jurisdiction at Varanasi. The transfer application is, accordingly, **dismissed**.

27. The dismissal of the present transfer application shall not preclude the applicant from moving an appropriate application before the learned Family Court, Ballia seeking exemption from personal appearance or such other procedural accommodation as may be permissible in law, particularly having regard to her employment at Varanasi and the pendency of connected proceedings. If any such application is filed, the learned court concerned shall consider the same on its own merits and in accordance with law.

28. It is clarified that this Court has not expressed any opinion on the merits of the matrimonial dispute or on the allegations and counter-allegations of the parties. The proceedings pending before the competent court at Ballia shall be dealt with and

decided in accordance with law, uninfluenced by any observation made in the present order.

29. There shall be no order as to costs.

August 18, 2026
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(Dr. Yogendra Kumar Srivastava,J.)