



2026:AHC:192394

**HIGH COURT OF JUDICATURE AT ALLAHABAD**

**TRANSFER APPLICATION (CIVIL) No. - 601 of 2025**

Smt. Taruni Tripathi

.....Applicant(s)

Versus

Duresh Tripathi

.....Opposite Party(s)

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| Counsel for Applicant(s)      | : Dinesh Kumar Gupta, Shiv Shankar Gupta |
| Counsel for Opposite Party(s) | : Anish Kumar Singh, Siddharth Chaudhary |

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**AFR**

**Court No. – 35**

**HON'BLE DR. YOGENDRA KUMAR SRIVASTAVA, J.**

Heard Sri Dinesh Kumar Gupta, learned counsel appearing for the applicant and Sri Siddharth Chaudhary, learned counsel appearing for the opposite party.

2. The present transfer application has been filed seeking transfer of Divorce Case No.414 of 2025 (*Durgesh Tripathi Vs. Smt. Taruni Dwivedi*) instituted by the opposite party under Section 13 of the Hindu Marriage Act, 1955, and pending before the Principal Judge, Family Court, Kanpur Nagar, to the Court of the Principal Judge, Family Court, Hamirpur.

3. The case set up by the applicant, in brief, is that her marriage with the opposite party was solemnized on 26.02.2009 according to Hindu rites and rituals. Two children were born from the marriage, namely, a daughter, Shailvi, on 19.10.2010, and a son, Dhairya, on 19.11.2016. It is averred that, after some time of the marriage, on account of matrimonial discord, the applicant was compelled to leave her matrimonial home along with her minor son, Dhairya.

4. According to the applicant, she is presently residing at her parental house situated at Mohalla Ramedi, Police Station Kotwali, District Hamirpur. It is further stated that, arising out of the matrimonial dispute, she has instituted proceedings at Hamirpur, namely, Case No. 316 of 2025 under Section 12 of the Protection of Women from Domestic Violence Act, 2005, before the Court of Civil Judge (Junior Division), F.T.C. II/(Crime Against Women), Hamirpur, and Case No. 110 of 2025 under Section 144 of the Bharatiya Nagarik Suraksha Sanhita, 2023, before the Principal Judge, Family Court, Hamirpur.

5. The applicant states that, while the aforesaid proceedings were pending at Hamirpur, the opposite party instituted Divorce Case No. 414 of 2025 before the Principal Judge, Family Court, Kanpur Nagar. According to the applicant, the divorce petition has been instituted on false and fictitious grounds. It is further stated that the proceedings in the divorce case have commenced and that she came to know of its institution upon receipt of summons.

6. The applicant has further pleaded that Hamirpur and Kanpur Nagar are situated at a distance of more than 60 kilometres and that, having regard to the distance involved, she would face considerable inconvenience in attending the proceedings before the Family Court at Kanpur Nagar.

7. Learned counsel for the applicant submits that, in matrimonial proceedings, the convenience of the wife is a relevant and ordinarily entitled consideration while determining a prayer for transfer. It is contended that, in the facts of the present case, the applicant is residing at Hamirpur, where proceedings arising out of the matrimonial dispute

are already pending, and that no circumstance has been shown which would justify requiring her to prosecute the divorce proceedings at Kanpur Nagar.

8. Learned counsel appearing for the opposite party has opposed the prayer for transfer and has placed reliance upon the averments made in the counter affidavit. It is submitted that, contrary to the assertion made by the applicant, she is not presently residing at Hamirpur but is residing at Pukhrayan, District Kanpur Dehat, which adjoins District Kanpur Nagar. In support of the submission, learned counsel has drawn attention to the address of the applicant disclosed by her in the description of parties to the present transfer application.

9. It is further submitted that the mere pendency of proceedings at Hamirpur does not, by itself, constitute a sufficient ground for transferring the divorce proceedings from Kanpur Nagar. Learned counsel has also submitted that the opposite party apprehends a threat to his life and personal security at Hamirpur and that, in this regard, applications have already been submitted by him before the concerned police authorities.

10. The rival submissions thus give rise to the question whether, having regard to the circumstances pleaded by the applicant, the pendency of the connected proceedings at Hamirpur, the alleged inconvenience in attending the divorce proceedings at Kanpur Nagar, and the apprehensions expressed by both parties, the facts of the case warrant exercise of the discretionary power of transfer under Section 24 of the Code of Civil Procedure, 1908.

11. The jurisdiction under Section 24 of the Code of Civil Procedure, 1908 is discretionary in nature and is required to be exercised judicially, upon a careful consideration of the facts and circumstances of each case. The power of transfer is intended to ensure that neither party is subjected to such hardship or prejudice as may impair a fair and effective conduct of the proceedings. No single circumstance can, by itself, be treated as determinative in every matrimonial proceeding. The Court is required to assess the circumstances as a whole and determine whether continuation

of the proceeding before the existing forum would cause such inconvenience, hardship, prejudice or other difficulty as would justify transfer.

12. In matrimonial proceedings, the convenience of the wife is undoubtedly a relevant and significant consideration, particularly where she is required to travel to a distant place, has limited means, is required to look after minor children, or is otherwise placed in circumstances which make attendance at the existing forum materially difficult. At the same time, such convenience cannot be elevated into an absolute or inflexible rule that a matrimonial proceeding must invariably be transferred to the place where the wife resides or where proceedings instituted by her are pending. The discretion under Section 24 CPC necessarily requires consideration of the circumstances affecting both parties.

13. The relevant considerations may, therefore, include the place of residence of the parties, their respective economic and social circumstances, the distance and accessibility of the competing forums, the availability of transportation, the nature and stage of the proceedings, the pendency of other proceedings arising out of the matrimonial relationship, the requirement of personal attendance, the availability of legal representation, the presence of minor children or other dependants, and any other circumstance bearing upon the ability of either party to participate effectively in the proceedings. The convenience of one party cannot be considered in isolation where the material placed before the Court discloses a corresponding or competing hardship on the other side.

14. In **Sadhna Singh Vs. Mrityunjay Singh**<sup>1</sup>, this Court, while considering a prayer for transfer of a matrimonial proceeding, emphasised that the convenience of the wife, though an important consideration, has to be examined along with the other circumstances relevant to the case. The decision underscores the need for a cumulative assessment having regard, *inter alia*, to the place of residence, the economic and social circumstances of the parties, the pendency of other

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proceedings, the accessibility of the Court and the available means of transportation. The principle emerging therefrom is that the jurisdiction under Section 24 CPC is not to be exercised mechanically merely because the wife resides at a place different from the forum where the matrimonial proceeding is pending. What is required to be examined is the actual nature and degree of the inconvenience or hardship and its bearing upon the fair and effective conduct of the proceedings.

15. Likewise, in **Anjana Rana Vs. Navin Singh**<sup>2</sup>, the convenience of the wife, the pendency of connected proceedings and the inconvenience occasioned by travel were recognised as relevant considerations, while emphasising that their significance has to be assessed in the context of the particular facts and circumstances of the case. The existence of proceedings at the proposed transferee forum may lend weight to a request for transfer, particularly where the proceedings are closely connected with the matrimonial dispute; however, their mere pendency does not, by itself, create a right to have the matrimonial proceeding transferred. Similarly, the distance between the two places has to be considered in the context of their accessibility and the actual circumstances in which the concerned party is required to undertake the journey.

16. Thus, the prayer for transfer cannot be determined either by applying an inflexible rule in favour of the wife's convenience or by requiring the applicant to demonstrate an extraordinary or exceptional circumstance in every case. The governing consideration remains the advancement of the cause of justice. Where the circumstances, taken cumulatively, disclose substantial hardship or prejudice affecting a party's fair and effective participation in the proceeding, the Court may exercise its power of transfer under Section 24 CPC. Conversely, where the material placed before the Court does not disclose such substantial impediment and the grounds urged essentially amount to ordinary inconvenience associated with attending proceedings at another place, the discretionary power of transfer may not be warranted.

17. The enquiry is, therefore, not whether the applicant can establish inconvenience in the abstract, but whether the circumstances placed before the Court, considered cumulatively and in their proper context, disclose a degree of hardship or prejudice which makes it just and appropriate to shift the proceeding from the existing forum. At the same time, the Court must guard against converting proceedings under Section 24 CPC into an adjudication of disputed factual allegations concerning the merits of the matrimonial dispute.

18. The assessment remains confined to circumstances relevant to the forum and to the fair and effective conduct of the proceedings, with the object of ensuring that neither party is placed at an unfair disadvantage in prosecuting or defending the matrimonial proceeding.

19. The aforesaid principles, when applied to the present case, require consideration of the circumstances principally relied upon by the applicant, namely, her asserted residence at Hamirpur, the pendency there of proceedings instituted by her in connection with the matrimonial dispute, the inconvenience which she would face in attending the proceedings at Kanpur Nagar, and the apprehension expressed by her regarding her safety. These circumstances are undoubtedly relevant. The question, however, is whether, taken cumulatively, they disclose such substantial hardship or prejudice as would warrant transfer of the divorce proceeding.

20. The first circumstance, namely, the applicant's residence at Hamirpur, is itself disputed. While the applicant asserts that she is residing at her parental house at Hamirpur, the opposite party has relied upon the address disclosed by the applicant herself in the present transfer application, which indicates Pukhrayan, District Kanpur Dehat, and submits that Pukhrayan is in an adjoining district to Kanpur Nagar. The dispute is relevant to the assessment of the alleged inconvenience, since the extent of travel and the hardship, if any, occasioned thereby would necessarily depend upon the place from which the applicant is required to attend the proceedings. The Court must, therefore, take into

consideration the contrary material relied upon by the opposite party while assessing the applicant's plea of inconvenience.

21. Even assuming the applicant's stated residence at Hamirpur for the purpose of considering her plea, the material placed before the Court does not establish travel-related hardship of such degree as would warrant transfer. Apart from stating that Kanpur Nagar is situated at a distance of more than 60 kilometres from Hamirpur, the applicant has not placed any specific material to demonstrate that reasonable means of transportation are unavailable, that her personal attendance is required with such frequency as to cause substantial hardship, or that she would otherwise be unable to effectively prosecute the proceedings at Kanpur Nagar. Nor has any circumstance such as inability to secure effective legal representation, unavoidable conflict of dates, or any other specific impediment to her participation in the proceedings been demonstrated.

22. The applicant has next relied upon the pendency of Case No. 316 of 2025 under Section 12 of the Protection of Women from Domestic Violence Act, 2005 and Case No. 110 of 2025 under Section 144 of the Bharatiya Nagarik Suraksha Sanhita, 2023 at Hamirpur. The pendency of proceedings arising out of the matrimonial relationship at the proposed transferee forum is a relevant circumstance and may, in an appropriate case, lend weight to a prayer for transfer. Its significance would be greater where the proceedings are closely connected in their factual foundation and their continuance at one forum would materially reduce inconvenience or avoid unnecessary duplication. However, their mere pendency at Hamirpur does not, by itself, confer a right to transfer the divorce proceeding from Kanpur Nagar. The relevance of these proceedings must, therefore, be considered together with the other circumstances relied upon by the applicant, including the alleged travel-related hardship and apprehension regarding her safety.

23. The applicant has also pleaded an apprehension of harm at the hands of the opposite party and his family members if she is required to attend the proceedings at Kanpur Nagar. An apprehension concerning personal safety, if founded upon cogent and credible circumstances, is plainly a relevant consideration while determining a prayer for transfer. At the same time, a mere assertion of apprehension, without circumstances furnishing a reasonable and substantial basis for it, cannot by itself justify transfer. In **Arshad Hussain v. Nazia Parveen**<sup>3</sup>, this Court, while considering a plea founded upon apprehension of prejudice, reiterated that such apprehension must have a real and reasonable basis and disclose a genuine likelihood of prejudice or failure of justice.

24. In the present case, no specific or immediate circumstance has been brought on record which demonstrates that the applicant would be unable to safely attend or effectively participate in the proceedings before the Family Court at Kanpur Nagar. The allegations concerning the conduct of the opposite party and his family members, including the alleged threat to the applicant, have been disputed by the opposite party, and their truth or otherwise is not required to be adjudicated in the present proceedings. Significantly, the opposite party has also pleaded apprehension regarding his own safety at Hamirpur and has stated that applications in this regard have been submitted before the concerned police authorities. The material before the Court thus discloses competing assertions of apprehension, neither of which, on the material presently available, is shown to furnish a sufficient basis for directing transfer.

25. The Court is conscious that the applicant is the wife and that proceedings instituted by her are pending at Hamirpur. These circumstances have been duly taken into consideration. The question, however, is whether, having regard to the totality of the circumstances, the continuation of the divorce proceeding at Kanpur Nagar would subject the applicant to such substantial hardship or prejudice as would make transfer necessary in the interests of justice. The disputed position

regarding her place of residence, the absence of specific material demonstrating substantial travel-related hardship, the nature of the proceedings pending at Hamirpur, and the competing apprehensions of personal safety have all been considered in this regard.

26. On a cumulative assessment of the material placed before the Court, the circumstances relied upon by the applicant, individually or collectively, do not disclose such hardship, prejudice or impediment as would warrant transfer of Divorce Case No. 414 of 2025 from Kanpur Nagar to Hamirpur. The mere fact that the applicant is the wife, that proceedings arising out of the matrimonial dispute are pending at Hamirpur, or that attendance at the existing forum involves travel, cannot, in the circumstances of the present case, by themselves furnish sufficient ground for exercise of the discretionary power under Section 24 CPC. The conclusion is confined to the material presently available and is not intended to determine any disputed factual issue arising in the matrimonial dispute.

27. For the aforesaid reasons, this Court finds no sufficient ground to exercise the power of transfer under Section 24 of the Code of Civil Procedure, 1908. The prayer for transfer of Divorce Case No. 414 of 2025 from the Court of the Principal Judge, Family Court, Kanpur Nagar to the Court of the Principal Judge, Family Court, Hamirpur is, accordingly, declined.

28. The transfer application is, accordingly, **dismissed**. Having regard to the nature and age of the proceedings, the Court concerned shall endeavour to proceed with Divorce Case No. 414 of 2025 expeditiously, in accordance with law, and to avoid granting unnecessary adjournments to either party.

29. It is clarified that the observations made in this order are confined to the consideration of the prayer for transfer under Section 24 of the Code of Civil Procedure, 1908. Nothing contained herein shall be construed as an expression of opinion on the merits of the matrimonial dispute or on the merits of any other proceeding pending between the

parties. The concerned Court shall adjudicate the proceedings independently and in accordance with law.

**(Dr. Yogendra Kumar Srivastava,J.)**

**September 14, 2026**

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