



2026:AHC:21620

## HIGH COURT OF JUDICATURE AT ALLAHABAD

### TRANSFER APPLICATION (CIVIL) No. - 1027 of 2023

Smt. Arju @ Vimal

.....Applicant(s)

Versus

Umakant Parasar

.....Opposite  
Party(s)

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Counsel for Applicant(s)	:	Sandeep Kumar Singh
Counsel for Opposite Party(s)	:	Awadh Narain Rai

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**Court No. - 35**

**AFR**

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

1. Heard Sri Sandeep Kumar Singh, learned counsel for the applicant and Sri Awadh Narain Rai, learned counsel for the opposite party.
2. The present application has been preferred by the Applicant-wife under Section 24 of the Code of Civil Procedure, 1908, seeking transfer of Case No. 925 of 2023 (Umakant vs. Arju), instituted under Section 13 of the Hindu Marriage Act, 1955. The Applicant seeks transfer of the said proceedings from the Court of the Principal Judge, Family Court, Meerut, to the Court of competent jurisdiction at District Baghpat.
3. The order-sheet of the case indicates that on 16.1.2024, when the case was taken up as fresh case, this Court, upon considering the submissions made on behalf of the applicant that a complaint case registered as Complaint Case No. 4275 of 2022 was pending in the Baghpat Judgeship and that as per the applicant, this divorce petition had been filed by the respondent in the Family Court at Meerut with a view to harass the applicant, and also taking note of the fact that the applicant is a deserted wife, having no source of income, directed issuance of notice and stayed the further proceedings of the divorce suit.
4. Today, upon the case being taken up, counsel appearing for the opposite party states that he has instructions from the opposite party, not to oppose the present application for transfer.

5. The facts as pleaded on behalf of the applicant-wife indicate that, the opposite party filed the petition under Section 13 of the Hindu Marriage Act 1955, on 20.04.2023, before the Court of Principal Judge, Family Court, Meerut, seeking a declaration that the marriage dated 21.02.2020 be dissolved. The said petition was registered as Case No. 925 of 2023 (Umakant v. Arju). Notice of the said proceedings has been served upon the applicant and the matter is pending before the Family Court, Meerut.

6. The applicant is stated to be presently residing at her parental home along with her minor daughter. According to the applicant, attending the proceedings at Meerut would cause inconvenience and hardship. In these circumstances, the present application under Section 24 of the Code of Civil Procedure has been filed seeking transfer of the divorce case pending before the Family Court, Meerut.

7. This Court has considered the pleadings on record, the submissions made, and the statutory scheme of Section 24 of the Code of Civil Procedure.

8. Section 24 CPC confers a wide and discretionary jurisdiction upon the High Court and the District Court to transfer or withdraw any suit, appeal or other proceeding at any stage, either on the application of any of the parties or even *suo motu*. The provision is intended to ensure fair trial, avoid hardship, and secure proper administration of justice.

9. It is a settled principle that ordinarily the plaintiff, being *dominus litis*, has the right to choose the forum of institution, and such choice should not be lightly interfered with. However, this right is not absolute. Section 24 CPC constitutes an exception to the general rule and empowers the Court to override such choice where the ends of justice so demand.

10. In the present case, it is significant to note that the respondent has expressly stated that he does not wish to oppose the transfer application. The fact that the transfer is not contested and is, in effect, by consent of the parties is a relevant and material consideration. Though Section 24 CPC does not expressly use the expression "transfer by consent", nothing in the provision prohibits the Court from ordering transfer where both parties agree or where the opposite party raises no objection.

11. Where the parties are *ad idem* on the question of transfer, the need for a detailed comparative examination of balance of convenience stands considerably diluted. The plaintiff's right as *dominus litis* is deemed to have been voluntarily waived, and no prejudice can be said to be caused to either side. A consensual transfer, in such circumstances, ordinarily advances the interest of justice, avoids procedural contest, and facilitates expeditious adjudication.

12. When transfer is sought and is not opposed, and the Court finds no legal impediment, such transfer would clearly subserve the ends of justice. The requirement of recording reasons is sufficiently met by noting the consent of parties coupled with the Court's satisfaction regarding the propriety of transfer.

13. The power of transfer under Section 24 CPC is discretionary but must be exercised to subserve the ends of justice. In matrimonial disputes, the "balance of convenience" is the primary yardstick. The courts have consistently held that while "convenience" is a relative term, in the Indian socio-economic context, the convenience of the wife must be afforded priority while considering transfer.

14. In matrimonial proceedings, Courts have observed that the convenience of the wife deserves due consideration, and that the cardinal principle governing exercise of power under Section 24 of the Code of Civil Procedure is that the ends of justice should be subserved.

15. In view of the aforesaid discussion, and particularly in view of the hardship that has been pleaded by the applicant and the categorical "No Objection" expressed on behalf of the Opposite Party, this Court is of the considered opinion that the present case is a fit one for exercise of power under Section 24 CPC. The transfer sought, being by consent of the parties and in furtherance of justice, deserves to be allowed.

16. Accordingly, the **Civil Misc. Transfer Application is allowed** with the following directions :

(i) The proceedings of Case No. 925 of 2023 (Umakant vs. Arju), instituted under Section 13 of the Hindu Marriage Act, 1955, are hereby

withdrawn from the Court of the Principal Judge, Family Court, Meerut, and transferred to the Court of the Principle Judge, Family Court, Baghpat.

(ii) The Principal Judge, Family Court, Meerut, is directed to transmit the entire case record to the Transferee Court at District Baghpat **within fifteen days** from the date of receipt of a certified copy of this order.

(iii) The Transferee Court shall proceed with the matter from the stage at which it was transferred and shall endeavor to conclude the proceedings expeditiously.

17. Parties would, also, be at liberty to seek expedition of the case before the Transferee Court.

(Dr. Yogendra Kumar Srivastava,J.)

**January 30, 2026**

RKK/-