



2026:AHC-LKO:22342

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

MATTERS UNDER ARTICLE 227 No. - 1424 of 2026

Rajneesh Kumar Tripathi And Another

.....Petitioner(s)

Versus

Civil Judge Malihabad (Senior Division) Lko. And
8 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Anil Kumar Gupta, Smt. Ruchi Gupta
Counsel for Respondent(s)	:	

Court No. - 5

HON'BLE ALOK MATHUR, J.

1. Heard Sri Anil Kumar Gupta, learned counsel for the petitioners.
2. In the light of proposed order notice to private respondents is dispensed with.
3. It has been submitted by learned counsel for the petitioners that the petitioners have filed civil Suit against the respondents for permanent injunction in the Court of Civil Judge (Senior Division), Lucknow in the year 2023, which have been registered as Regular Suit No. 676 of 2023 and 377 of 2023. It is in the said proceedings that interim injunction order has also been passed against the respondents on 29.05.2025 in Suit No. 676 of 2023 - Rajneesh Kumar Tripathi Vs. Nisha Dixit.
4. It has been submitted that subsequently, defendants have put in appearance and have also prayed for vacation of the interim order passed by the Civil Court and their application under Order 9 Rule 7 CPC has also been rejected on 09.10.2025.
5. It has been submitted that subsequently defendants have themselves instituted Regular Suit No. 2660 of 2025, seeking declaration permanent injunction against petitioners which has been filed in the Court of Civil Judge, Haveli (Junior Division), Lucknow with regard to the same property which is subject matter of Suit instituted by the petitioners.
6. It has been submitted that in Suit No. 260 of 2025 injunction has been

denied by the Court. It is submitted that once they were not successful in obtaining injunction in their favour they have filed another suit being Suit No. 2160 of 2025 - Rayeesh Bano Vs. Smt. Ranjeeta Singh and 8 Others, in the Court of Civil Judge (Senior Division), Malihabad, Lucknow. It is in the Suit No. 2160 of 2025 that an ex-parte injunction order has been passed in favour of the respondent no. 1 on 01.10.2025 and in the said proceedings petitioners have put in appearance and also filed an application under Order 39 Rule 4 CPC, which is pending consideration.

7. It has been further submitted by learned counsel for the petitioners that grievance raised in the present petition is with regard to the fact that petitioners have moved an application for transfer before the District Judge, Lucknow under Section 24 of the CPC which was registered as Misc. Case No. 1068 of 2025 for transfer of Suit No. 2160 of 2025 from the Court of Civil Judge (Senior Division), Malihabad, Lucknow to any other Court of competent jurisdiction. The said application was filed on 18.11.2025. It is during pendency of the said application that the Civil Judge (Senior Division), Malihabad, Lucknow has proceeded to decide application under Order 39 Rules 1 and 2 CPC on 02.01.2026, which has been assailed by the petitioners in the present writ petition.

8. Only ground urged by the petitioners is that during pendency of the transfer application the Civil Judge (Senior Division), Malihabad, Lucknow ought to have been restrained himself from deciding the said application. It has been further submitted that subsequently, on 09.01.2026, the transfer application has been allowed and the Suit No. 2160 of 2025 stood transferred from the Court of Civil Judge (Senior Division), Malihabad, Lucknow to the Court of Civil Judge (Senior Division), Lucknow.

9. It has been submitted that only ground urged is that once transfer application has been filed then the Civil Judge (Senior Division), Malihabad, Lucknow should not have proceed with the matter and should have stayed the proceedings of the case.

10. Considering the arguments of the petitioners it is noticed that the application for transfer was filed by the petitioners on 18.11.2025 and

same remained pending before the Civil Judge (Senior Division), Malihabad, Lucknow, but there is no dispute with regard to the fact that in the application filed under Section 24 CPC, no order was passed by the District Judge staying the suit proceedings before the Civil Judge (Senior Division), Malihabad, Lucknow. It is further noticed that in the proceedings before the Civil Judge (Senior Division), Malihabad, Lucknow, the petitioners have put in appearance and contested the application 6Ga which has been duly recorded in the impugned order dated 21.01.2026.

11. Accordingly, considering the fact that the District Judge, Lucknow did not stay the proceedings before the Civil Judge (Senior Division), Malihabad, Lucknow, and therefore, there was no occasion for the trial Court to have deferred hearing of the application which was pending before him.

12. It is further noticed that merely by filing transfer application the proceedings of the suit are not stayed. It is always open for the applicants to press their interim relief application pending before the Court where application for transfer has been preferred and unless and until orders are passed restraining the trial Court from proceeding, there is no provision for restraining the trial Court from deciding the pending applications or even the suit on merits.

13. Apart from the above, this Court finds that the respondents in the suit proceedings have put in appearance and were duly heard. Accordingly, once the petitioners themselves have appeared and contested the application under Order 39 Rules 1 and 2 CPC, it cannot be set aside merely on the account of the fact that transfer application was pending.

14. This Court is of the considered view that even if subsequently, transfer application is allowed on 09.01.2026, said order will not effect the validity of the order passed previously on 02.01.2026. No other ground was urged by the petitioners in assailing the order dated 02.01.2026.

15. In the light of above, this Court do not find any merit in the arguments of the petitioners, necessitating interference by this Court in the impugned

order dated 02.01.2026.

16. Accordingly, present writ petition being devoid of merits, stands **dismissed.**

(Alok Mathur,J.)

March 31, 2026
A. Verma