



2026:AHC:7398

HIGH COURT OF JUDICATURE AT ALLAHABAD

TRANSFER APPLICATION (CIVIL) No. - 6 of 2026

Smt. Anjana Rana

.....Applicant(s)

Versus

Navin Singh

.....Opposite Party(s)

Counsel for Applicant(s)	:	Raghuraj Singh, Vijay Pal
Counsel for Opposite Party(s)	:	

Court No. - 35

A.F.R.

HON'BLE DR. YOGENDRA KUMAR SRIVASTAVA, J.

1. Heard Sri Raghuraj Singh, learned counsel for the applicant.
2. The present transfer application has been filed by the applicant, under Section 24 of the Code of Civil Procedure, 1908, seeking transfer of Case No. 1226 of 2023 (Navin vs. Anjana), instituted under Section 13 of the Hindu Marriage Act, 1955, pending before the Court of Principal Judge, Family Court, Agra, to the competent Family Court at Firozabad.
3. From a perusal of the affidavit filed in support of the application, it transpires that divorce suit bearing Case No.1226 of 2023, under Section 13 of the Hindu Marriage Act, 1955 was instituted by the opposite party on 16.05.2023 before the court of Family Judge, Agra.

4. The principal ground urged in support of the transfer application is that the applicant has instituted proceedings under Sections 12, 17, 18, 19, 20 and 22 of the Protection of Women from Domestic Violence Act, 2005 on 24.01.2025 before the Court of Judicial Magistrate, Firozabad, as well as proceedings under Section 144 of the Bharatiya Nagarik Suraksha Sanhita, 2023 seeking maintenance before the Principal Judge, Family Court, Firozabad on 17.04.2025, which are stated to be pending.

5. Learned counsel for the applicant has, however, not disputed that the aforestated proceedings under the Protection of Women from Domestic Violence Act, 2005 and under the Bharatiya Nagarik Suraksha Sanhita, 2023 were instituted much subsequent to the institution of the divorce petition pending before the Family Court, Agra.

6. It is well settled that while considering an application for transfer of matrimonial proceedings, the Court is required to examine whether a genuine hardship, grave inconvenience, or exceptional circumstance has been established warranting transfer in the interest of justice. Mere inconvenience or preference of one party, without substantiating circumstances, does not ipso facto justify transfer of proceedings.

7. The power of transfer vested in this Court under Section 24 of the Code of Civil Procedure is discretionary in nature and enables the Court, either on the application of a party or suo motu, to transfer or withdraw any suit, appeal, or other proceeding pending before a subordinate court. However, such power is not to be exercised mechanically or as a matter of routine, but only upon

due and careful consideration of the facts and circumstances of each case.

8. It is a settled principle of law that the plaintiff, being *dominus litis*, has the right to choose the forum for institution of proceedings, and such choice ought ordinarily to be respected. Interference with the forum selected by the plaintiff is an exception and not the rule. While considering a prayer for transfer, the Court is required to balance this right against the competing obligation to ensure a fair trial and proper dispensation of justice.

9. The concept of “balance of convenience” is a relevant consideration; however, it cannot be confined to the convenience of one party alone and must encompass the convenience of both parties, witnesses, the suitability of the forum having regard to the nature of evidence, and the doctrine of *forum conveniens*.

10. The jurisdiction to transfer a case must be exercised with extreme care, caution, and circumspection. Mere inconvenience or relative hardship, though relevant, may not by itself constitute a decisive ground for transfer. The burden squarely lies upon the applicant to establish sufficient, cogent, and compelling grounds demonstrating that refusal of transfer would result in denial of justice.

11. The criteria for transfer of a case were examined by the Supreme Court in the context of a petition seeking transfer of a criminal case, in **Maneka Sanjay Gandhi and Another Vs. Rani Jethmalani**¹. The cardinal principle in this regard was laid down by observing that: “Assurance of a fair trial is the first imperative of

1 1979 (4) SCC 167

the dispensation of justice and the central criterion for the court to consider when a motion for transfer is made is not the hypersensitivity or relative convenience of a party or easy availability of legal services or like mini grievances. Something more substantial, more compelling, more imperiling, from the point of view of public justice and its attendant environment, is necessitous if the Court is to exercise its power of transfer. This is the cardinal principle although the circumstances may be myriad and vary case to case”.

12. It was emphasized that transfer cannot be ordered on the basis of mere inconvenience or subjective apprehension, unless the same has a direct bearing on the fairness of the trial.

13. In **Subramaniam Swamy vs. Ramakrishna Hegde**², while dealing with the power of transfer under Section 25 CPC, the Supreme Court reiterated the doctrine of *dominus litis* and held that though convenience is a relevant consideration, the **paramount test** remains whether continuance of proceedings in the chosen forum would result in **denial of justice**. The Court categorically observed: “*The mere convenience of the parties or any one of them may not be enough for the exercise of power but it must also be shown that trial in the chosen forum will result in denial of justice.*”

14. It was further clarified that transfer is justified only when it becomes **imperative to meet the ends of justice**, even if such transfer causes some inconvenience to the plaintiff.

15. The factors to be taken into account for transfer of a case were again considered in **Kulwinder Kaur @ Kulwinder**

² (1990) 1 SCC 4

Gurcharan Singh Vs. Kandi Friends Education Trust and Others³, and it was observed that keeping in mind the various judicial pronouncements, certain broad propositions as to what may constitute a ground for transfer have been laid down by courts. Some of the instances which are germane in considering the question of transfer of suit, appeal or other proceeding were enumerated as follows: (i) balance of convenience or inconvenience to the plaintiff or the defendant or witnesses; (ii) convenience or inconvenience of a particular place of trial having regard to the nature of evidence on the points involved in the suit; (iii) issues raised by the parties; (iv) reasonable apprehension in the mind of the litigant that he might not get justice in the court in which the suit is pending; (v) important questions of law involved or a considerable section of public interested in the litigation; (vi) “interest of justice” demanding for transfer of case, etc. are some of the instances which are germane. It was, however, cautioned that these instances are merely illustrative and not exhaustive.

16. In the context of cases relating to matrimonial matters, convenience of the wife may be a relevant factor, as held in *Anjali Ashok Sadhwani vs. Ashok Kishinchand Sadhwani*⁴ and *Fatema vs. Jafri Syed Husain @ Syed Parvez Jafferi*⁵. However, even in such cases, there would be requirement to demonstrate existence of real hardship, such as inability to travel long distance, absence of escort, or circumstances rendering participation in proceedings practically impossible.

3 (2008) 3 SCC 659

4 AIR 2009 SC 1374

5 AIR 2009 SC 1773

17. It has been consistently held that mere expense or difficulty does not *ipso facto* justify transfer unless such difficulty is of such magnitude as to result in injustice. The Courts have laid emphasis that the plaintiff has the choice of forum and that very strong reasons must be shown to deprive the plaintiff of this choice (**P. Sadayandi Nadar vs. Venugopala Chetty**⁶; **Satyasri Fertilisers vs. E.I.D. Parry (India) Ltd.**⁷). It has repeatedly been emphasized that the Court must ascertain whether **reasonable grounds** are made out and not act on bald or vague allegations (**Smt. Sudha Sharma vs. Ram Naresh Jaiswal**⁸).

18. In the present case, apart from a general assertion of difficulty in attending the proceeding at Agra, no specific material has been brought on record to demonstrate that the applicant is unable to prosecute or defend the proceedings before the Family Court, Agra

19. It is also not in dispute that Firozabad is an adjoining district of Agra and the distance between the two places is not such which, by itself, can be said to cause insurmountable hardship or prejudice.

20. Learned counsel for the applicant has not disputed the factual position that the proceedings under Sections 12, 17, 18, 19, 20 and 22 of the Protection of Women from Domestic Violence Act, 2005, instituted on 24.01.2025, as well as the proceedings under Section 144 of the Bharatiya Nagarik Suraksha Sanhita, 2023, instituted on 17.04.2025, at Family Court, Firozabad, were

6 AIR 1960 Ker 91

7 AIR 2003 AP 312

8 AIR 1990 MP 320

initiated subsequent to the institution of the divorce suit which were already pending prior in point of time. In such circumstances, the subsequent institution of proceedings at Firozabad cannot be taken as a valid or legally sustainable ground for seeking transfer of the earlier instituted matrimonial proceedings, as the forum chosen first in point of time cannot be displaced merely on account of later proceedings initiated by the applicant.

21. The applicant has also not placed any material on record to show any other extraordinary circumstance which may necessitate the transfer of the divorce petition. In absence of such material, the Court is of the considered view that no exceptional or compelling ground has been made out for exercise of discretionary power of transfer under Section 24 of the Code of Civil Procedure.

22. The present transfer application lacks merit.

23. It is, accordingly, **rejected**.

(Dr. Yogendra Kumar Srivastava)

January 12, 2026

Arun K. Singh