

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
R/MISC. CIVIL APPLICATION (FOR TRANSFER) NO. 2595 of 2025

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR. JUSTICE DEVAN M. DESAI

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Approved for Reporting	Yes	No
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ROMA W/O AJAYKUMAR SHARMA
 Versus
 AJAYKUMAR GAJENDRAKUMAR SHARMA & ORS.

Appearance:

MS HIRAL B OZA(5180) for the Applicant(s) No. 1
 MR. HARSHAL S. PATEL(14220) for the Opponent(s) No. 1,2
 MR.DIPEN F CHAUDHARI(6740) for the Opponent(s) No. 1,2
 NOTICE SERVED for the Opponent(s) No. 3

CORAM: HONOURABLE MR. JUSTICE DEVAN M. DESAI

Date : 10/04/2026

JUDGMENT

1. Rule returnable forthwith. Learned advocate Mr. Harshal S Patel waives service of notice of rule on behalf of respondent. With the consent of parties, the matter is taken up for final disposal today itself.

2. The present Application is filed under Section 24 of the Code of Civil Procedure, 1908 (hereinafter, referred to as

“CPC”) praying for the transfer of Family Suit No. 23 of 2025 pending before the learned Family Court at Palanpur to the competent Court at Ahmedabad.

3. Heard learned advocate Ms. Hiral Oza for the applicant and learned advocate Mr. Harshal S Patel for the respondent.

4. The brief facts of the case are as under:

4.1 The marriage between the parties was solemnized on 25.02.2020 at Palanpur. A son was born out of the said wedlock, who is aged about 3 year at present. Disputes cropped up between the parties. The applicant – wife filed a Maintenance Application under Section 125 of the Code of Criminal Procedure, 1973. Another application was filed under Section 12 of the Protection of Women from Domestic Violence Act, 2005 before the learned 9th Additional Chief Judicial Magistrate, Ahmedabad being Cr.M.A. No. 1440 of 2023. Thereafter, the respondent – husband filed a suit under Section 7 and 9 of the Hindu Marriage Act, 1955 for Restitution of

Conjugal Rights being Family Suit No. 23 of 2025 before the learned Principal Family court at Palanpur. Therefore, applicant - wife has preferred present application seeking transfer of Family Suit filed by respondent - husband.

5. Learned advocate for the applicant submits that the marriage between the parties was solemnized on 25.02.2020 at Palanpur as per the Hindu Marriage Rites and Ceremonies and a son was born out of the said wedlock, who is aged about 3 years at present. It is submitted that the distance between Palanpur and Ahmedabad is approximately 150 kms. one way. The parties are living separately as of today. It is submitted that the applicant – wife filed a Maintenance Application under Section 125 of the Code of Criminal Procedure, 1973. Another application was filed under Section 12 of the Domestic Violence Act before the learned 9th Additional Chief Judicial Magistrate, Ahmedabad being Cr.M.A. No. 1440 of 2023 which is pending, wherein the learned Chief Judicial Magistrate, Ahmedabad directed the respondent – husband to

pay Rupees 5000/- per month to the wife and Rupees 2,500/- per month to the minor son. It is further submitted that the respondent – husband filed a suit under Sections 7 and 9 of the Hindu Marriage Act, 1955 for Restitution of Conjugal Rights being Family Suit No. 23 of 2025 before the learned Principal Family court at Palanpur. It is further submitted that the distance between Palanpur and Ahmedabad is about 150 kms one way and applicant is staying with her father at Ahmedabad. Learned advocate for applicant urged to allow the present application by transferring the Family Suit No. 23 of 2025 from learned Family Court, Palanpur to competent Court at Ahmedabad, considering the financial constraints of the applicant – wife and in the larger interest of justice. Except above, no other submissions were made by learned advocate for applicant.

6. Learned advocate for the opponent contended that no sufficient cause is made out by the applicant – wife for the transfer of proceedings from the Family Court, Palanpur to the

competent Court at Ahmedabad. Except above, no other submissions were made by learned advocate for the respondent.

7. I have considered the submissions canvassed by learned advocates for the respective parties and the averments made in the application. It appears that in the Domestic Violence Application which was filed by the applicant – wife before the learned Family Court, Ahmedabad, the husband had appeared and contested the same. After the said application came to be disposed of in favour of wife, the respondent – husband has filed Family Suit before the learned Principal Family Court, Palanpur. Considering the facts of the present case, it would be very difficult for the applicant being a lady to attend the Court proceedings before the learned Family Court at Palanpur from Ahmedabad. The distance between the aforesaid two places is approximately 150 kms. one way. She has to look after his son named, Dhairya, aged about 3 years as well as her father who is a senior citizen. The application, therefore,

needs consideration.

8. It will not be out of place to refer the case of ***Sumita Singh Vs. Kumar Sanjay, AIR 2002 SC 396***, wherein the Hon'ble Apex Court has observed that the wife's inconvenience must be given due importance while deciding application under Section 24 of CPC. The power vests under Section 24 of CPC is a discretionary power and Court may or may not exercise such discretion. In the present case, looking to the financial constraints of applicant – wife as averred in the application as well as the distance between Palanpur and Ahmedabad, it will be difficult for the applicant – wife to travel to attend the Court proceedings on each and every adjournment.

9. Under these circumstances, the prayers made by the present applicant requires consideration and therefore, the present application is allowed. The proceedings of Family Suit No. 23 of 2025 pending before the learned Family Court at Palanpur, District - Banaskantha shall be transferred to the

learned Family Court at Ahmedabad for hearing and final disposal, in accordance with law. Learned Family Court shall decide the controversy strictly as per evidence and provisions of law. Contentions of both the parties are left open. No order as to costs. Rule is made absolute.

10. It is made clear that this Court has not expressed any opinion on the merits of the case.

(D. M. DESAI,J)

SHIVANI SHUKLA