



IN THE HIGH COURT OF ORISSA, CUTTACK

TRP(C) No.103 of 2026

(An application under Section 24 of the
Code of Civil Procedure, 1908)

Subhashree Sahoo & anr. Petitioners

-Versus-

Panchanana Sahoo & anr. Opp. Parties

**For Petitioners : Mr. K. Gaya,
Advocate**

For Opp. Parties : None

CORAM: JUSTICE SANJAY KUMAR MISHRA

Date of Hearing and Judgment: 24.04.2026

S.K. Mishra, J.

1. This Transfer Petition has been preferred by the Petitioners, who are the Plaintiffs in Civil Suit No.75 of 2019, for transfer of proceeding in the said Suit from the Court of learned Civil Judge (Senior Division), Salipur in the district of Cuttack to the Court of learned Civil



Judge (Senior Division), Kendrapara on the grounds detailed therein.

2. The grounds urged in the transfer petition for transfer of Civil Suit Case No.75 of 2019 are that, after death of the husband of Petitioner No.1, she is residing in her parental house at Kendrapara with her minor daughter. She is dependent on her parents for her livelihood as she has no source of income. There is no male member in her family to accompany her to attend the day to day proceeding at Salipur. The Opposite Parties, who are the parents of her deceased husband, are influential persons of Salipur and she would not be able to contest the case before the Court at Salipur effectively.

3. To substantiate his submission, learned Counsel for the Petitioners relies on the judgment of the Supreme Court reported in (2008) 3 SCC 659 (***Kulwinder Kaur Alias Kulwinder Gurcharan Singh Vs. Kandi Friends Education Trust***). Paragraph No.23 of the said judgment, being relevant, is reproduced below:



“23. Reading Sections 24 and 25 of the Code together and keeping in view various judicial pronouncements, certain broad propositions as to what may constitute a ground for transfer have been laid down by courts. They are balance of convenience or inconvenience to the plaintiff or the defendant or witnesses; convenience or inconvenience of a particular place of trial having regard to the nature of evidence on the points involved in the suit; issues raised by the parties; reasonable apprehension in the mind of the litigant that he might not get justice in the court in which the suit is pending; important questions of law involved or a considerable section of public interested in the litigation; “interest of justice” demanding for transfer of suit, appeal or other proceeding, etc. Above are some of the instances which are germane in considering the question of transfer of a suit, appeal or other proceeding. They are, however, illustrative in nature and by no means be treated as exhaustive. If on the above or other relevant considerations, the court feels that the plaintiff or the defendant is not likely to have a “fair trial” in the court from which he seeks to transfer a case, it is not only the power, but the duty of the court to make such order.”

4. As is ascertained from the Plaint in Civil Suit No.75 of 2019, as at Annexure-1, the following prayers have been made:

“12. That the plaintiffs pray for the following reliefs :

A) Let be declared that the registered gift deed no. 880 dated 30.04.2016/E. Registration no.10471600880 registered at Salipur registration office purported to have been registered by Panchanan sahoo, defendant no.1 in favour of Rashmita Sahoo, defendant no.2 in respect of the suit land as mentioned in Sch.A was and is a void abinitio and fraudulent document, conveying no title in favour of the defendant no.2.



B) The defendants be permanently restrained from changing the nature and character of the suit land and or from ousting the plaintiffs from their peaceful enjoyment of the suit property and or from transferring the suit property and or from raising any constructions over the suit land as mentioned in Sch.A below at any time in future in any manner.

C) Cost of the suit be decreed in favour of the plaintiffs and against the defendants.

D) The plaintiffs be given such other relief or reliefs which the plaintiff may be deemed entitled to."

5. As is revealed from the prayers made in the
Plaint, the issue involved in the said lis is pertaining to
legality of registered gift deed no. 880 dated
30.04.2016/E. Registration no.10471600880, registered
at Salipur Registration Office, so also to permanently
restrain the Defendants from changing the nature and
character of the suit land and/ or from ousting the
plaintiffs from their peaceful enjoyment of the suit
property and /or from transferring the suit property and/
or from raising any constructions over the suit land as
mentioned in Sch.A of the Plaint, which is within the
territorial jurisdiction of the Court at Salipur. Even
though the Petitioners are staying in Kendrapara, the suit



for partition was rightly preferred by them in Salipur in the year 2019, before the Court having territorial jurisdiction.

6. After taking into consideration the grounds urged in the Transfer Petition for transfer of proceeding from Salipur to Kendrapara, submission made by the learned Counsel for the Petitioners and the settled position of law, this Court is of the view that such grounds are not convincing to consider the prayer made in this transfer petition. That apart, the Petitioners, who are the Plaintiffs in Civil Suit No.75 of 2019, are not supposed to attend the said proceeding on each and every date, as they are represented through a lawyer. Only their presence would be required in the said proceeding, if they intend to depose as PWs in Civil Suit No.75 of 2019. If there is any inconvenience for them to remain physically present before the said Court for adducing evidence because of their health issues, they can be examined through Video Conferencing Mode following due procedure prescribed under the Orissa High Court Video



Conferencing for Courts Rules, 2020, or on commission, as provided under Order 26, Rule 4 C.P.C, if it is prayed so by moving an appropriate application to the said effect at the stage of trial.

7. In a recent judgment passed in TRP(C) No.292 of 2022 (***Santilata Prusty Vrs. Shibani Prusty and others***), this Court, taking note of the judgments passed by the Supreme Court in ***Indian Overseas Bank, Madras Vs. Chemical Construction Company and others***, reported in (1979) 4 SCC 358 so also coordinate Bench in ***Benudhar Swain and others Vs. Nilamani Swain and others***, reported in 2005 (II) OLR 509, took a similar view.

8. In view of the above, this Court is not inclined to allow the prayer made in the transfer petition.

9. However, it is made clear that rejection of the prayer made in the Transfer Petition shall not be a bar for the Petitioners, who are the Plaintiffs in Civil Suit No.75 of 2019, to move appropriate application before the Court of learned Civil Judge (Senior Division), Salipur, seeking



leave of the said Court to allow them to be examined through Video Conferencing mode, apart from seeking remedies under the C.P.C for recording of their evidences through Commission, if they are so advised.

10. Accordingly, the transfer petition stands disposed of.

11. Urgent certified copy of this judgment be granted on proper application.

.....
S.K. MISHRA, J.

Orissa High Court, Cuttack
Dated, the 24th April, 2025/Prasant