

**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Civil Transfer Appl. No. 56/2025

Smt. Rajani Bakoliya W/o Shri Rahul Sunariwal, Aged About 39 Years, D/o Shri Om Prakash Bakoliya, R/o Plot No. 37, Indra Colony, Tehsil And Dist. Nagaur.

-----Petitioner

Versus

Rahul Sunariwal S/o Ramesh Chand Sunariwal, Aged About 39 Years, R/o Malusar, Shantinagar, Near Hansvidhya Mandir School, Dist. Ajmer.

-----Respondent

For Petitioner(s)	:	Mr. Tanay Jain for Mr. V.D.Gaur
For Respondent(s)	:	Mr. Aman Gaur for Mr. Kuldeep Purohit

HON'BLE MR. JUSTICE YOGENDRA KUMAR PUROHIT

Order

16/07/2025

1. The petitioner-wife has filed the present civil transfer application seeking transfer of Case No. 724/2024 "*Rahul Sunariwal Vs. Rajani Bakoliya*" preferred by the respondent-husband under Section 9 of the Hindu Marriage Act, pending before Family Court, Ajmer to the competent Court at Nagaur.
2. Heard learned counsel for the parties and perused the material available on record.
3. Learned counsel for the petitioner submitted that the marriage between the parties was solemnized on 05.06.2015 as per Hindu rituals and customs and out of the said wedlock two children were born. However, the petitioner-wife was harassed and cruelly treated by the respondent husband and his family members for demand of dowry and was turned out of her matrimonial home, therefore, she is residing at Nagaur with her parents along with two children and filed an FIR No. 104/2024 at Police Station Mahila Thana, Nagaur, District Nagaur for the

offences under Sections 85, 316 (2) and 115 (2) of BNS against her husband and his family members, in which, after investigation, charge sheet has been filed against her husband before CJM, Nagaur and the matter is pending. She also filed an application under Section 144 BNSS for grant of maintenance as also an application under Section 12 of the Protection of Women from Domestic Violence Act before CJM, Nagaur, which are pending consideration. However, with a view to harass and humiliate the petitioner, the respondent-husband has moved the application under Section 9 of the Hindu Marriage Act seeking restitution of conjugal rights before Family Court, Ajmer.

4. Learned counsel for the petitioner further submitted that the petitioner is a young lady and is presently residing with her parents at Nagaur along with her children. She has to travel 150 kms from Nagaur to Ajmer and there is no other member in her family to accompany her for attending the dates of hearing at Ajmer. The aforesaid cases filed by the petitioner-wife are pending at Nagaur. It is therefore, submitted that in the facts and circumstances of the case, it is very difficult and onerous for the petitioner to travel all alone along with her children to attend and defend the case filed by her husband at Ajmer and in the interest of justice, the case filed by the respondent-husband at Family Court, Ajmer under Section 9 of the Hindu Marriage Act deserves to be transferred to the competent Court at Nagaur.

5. Learned counsel appearing for the respondent-husband opposed the prayer for transfer of the case and prayed for rejection of the transfer application.

6. It is settled law that while considering transfer of case in matrimonial proceedings instituted by the husband, the convenience of the wife is to be looked into. In this regard, recently, Hon'ble the Supreme Court in the matter of **N.C.V. Aishwarya Vs. A.S.Saravana Karthik Sha, (Civil Appeal No.4894/2022 arising out of SLP (C) No.16465/2021)** decided on 18.7.2022, while considering transfer of matrimonial case under Section 24 CPC, has observed as under:-

“The cardinal principle for exercise of power under Section 24 of the Code of Civil Procedure is that the ends of justice should demand the transfer of the suit, appeal or other proceeding. In matrimonial matters, wherever Courts are called upon to consider the plea of transfer, the Courts have to take into consideration the economic soundness of both the parties, the social strata of the spouses and their behavioural pattern, their standard of life prior to the marriage and subsequent thereto and the circumstances of both the parties in eking out their livelihood and under whose protective umbrella they are seeking their sustenance to life. Given the prevailing socio-economic paradigm in the Indian society, generally, it is the wife’s convenience which must be looked at while considering transfer.”

7. Having considered the submissions made on behalf of the parties, looking to the facts and circumstances of the case noticed above and the settled position of law by the Hon’ble Supreme Court in the matter of N.C.V. Aishwarya (supra), the transfer application is allowed. It is ordered that Case No.724/2024 *"Rahul Sunariwal Vs. Rajani Bakoliya"* pending before Family Court No.1, Ajmer be transferred to the Court of Additional District Judge No.1, Nagaur. The Family Court No.1, Ajmer is directed to send the record of the aforesaid case to the Additional District Judge No.1, Nagaur, immediately. The parties are directed to appear before the Additional District Judge No.1, Nagaur on 07.8.2025. A copy of this order be sent to the Additional District Judge No.1, Nagaur. and Family Court No.1, Ajmer forthwith. Stay application also stands disposed of.

(YOGENDRA KUMAR PUROHIT),J