

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

S.B. Civil Transfer Appl. No. 85/2025

Smt. Pratibha W/o Shri Prakash, Aged About 27 Years, D/o Shri Suresh Kumar Thathera, Resident Of Ward No. 57 House No. 351 Near Seth Moti Lal College Stadium, District Jhunjhunu, Raj.

-----Petitioner

Versus

Prakash S/o Shri Gordhan, Aged About 33 Years, Resident Of Nai Haweli Chowk Nathdwara, Tehsil Nathdwara District Rajsamand Rajasthan.

-----Respondent

For Petitioner(s) : Mr. Puna Ram Sen

For Respondent(s) : None present despite service

HON'BLE MR. JUSTICE YOGENDRA KUMAR PUROHIT

Order

16/07/2025

1. The instant civil transfer application has been filed by the petitioner-wife seeking transfer of Case No.18/2025 "Prakash Vs. Smt. Pratibha" preferred by the respondent-husband seeking dissolution of marriage pending before Additional District Judge, Nathdwara, District Rajsamand to Family Court, Jhunjhunu.
2. None present for the respondent despite service.
3. Heard learned counsel for the petitioner and perused the material available on record.
4. Learned counsel for the petitioner-wife submitted that the marriage between the petitioner-wife and respondent-husband was solemnized as per Hindu rites and customs on 28.11.2023. Since the petitioner-wife was harassed and maltreated and turned out of her matrimonial home, therefore, she filed an application under Section 9 of the Hindu Marriage Act on 10.3.2025 as also an application seeking interim maintenance and an application under Section 144 BNSS seeking maintenance before learned Family Court, Jhunjhunu which are pending consideration. She has also

filed an application under Section 12 of the Protection of Women from Domestic Violence Act before CJM, Jnunjhunu which is pending. It is argued that with a view to harass and humiliate the petitioner, the respondent-husband has moved application seeking dissolution of marriage before the ADJ, Nathdwara, District Rajsamand.

5. Learned counsel for the petitioner further argued that the petitioner is a young lady and is residing at Jhunjhunu along with her parents. She is having no source of income. Her parents are old aged and there is no one in her family who can accompany her to attend the dates of hearing at Nathdwara. It is expensive and onerous for the petitioner to travel 480 kilometers from Jhunjhunu to Nathdwara District Rajsamand all alone on each and every dates of hearing to defend the case instituted by the respondent husband. In the above facts and circumstances, it is submitted that since the aforesaid cases filed by the petitioner-wife are pending at Jhunjhunu, in the interest of justice, the case filed by the respondent-husband under Section 13 of the Hindu Marriage Act seeking dissolution of marriage pending before ADJ, Nathdwara, District Rajsamand may be transferred to the Family Court, Jhunjhunu.

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 petitioner, 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 the Case No. 18/2025 pending before Additional District Judge, Nathdwara, District Rajsamand titled as "Prakash Vs. Smt. Pratibha" be transferred to the Family Court, Jhunjhunu. The Additional District Judge, Nathdwara, District Rajsamand is directed to send the record of the aforesaid case to Family Court, Jhunjhunu immediately. The parties are directed to appear before the Family Court, Jhunjhunu on 07.08.2025. A copy of this order be sent to the Family Court, Jhunjhunu and Additional District Judge, Nathdwara, District Rajsamand forthwith. Stay application also stands disposed of.

(YOGENDRA KUMAR PUROHIT),J