

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



S.B. Civil Transfer Application No. 248/2024
CNR: RJHC010810012024 | URN: CTA / 643U / 2024

Smt. Kesar Kunwar Mali W/o Tulsiram Ji Bhoi, Aged About 25 Years, D/o Nanalal Ji, R/o Azad Nagar, Nehru Hostel Ke Piche, Hiran Magri, Sector No. 3, Ward No. 26, Udaipur, At Present R/o Dholi Bawdi, Chhatri Chowk, Kelwa, Tehsil And Dist. Rajsamand.

-----Petitioner

Versus

Tulsiram S/o Bihari Lal Ji, Aged About 29 Years, R/o H. No. 140, Azad Nagar, Nehru Hostel Ke Piche, Hiran Magri, Sector No. 3, Ward No. 26, Udaipur Dist. Udaipur (Raj.)

-----Respondent

For Petitioner(s) : Ms. Nidhi Singhvi

For Respondent(s) :

HON'BLE MR. JUSTICE FARJAND ALI

Order

24/07/2026

1. By way of the instant transfer application, the petitioner-wife seeks transfer of Case No. 299/2024, presently pending before the learned Family Court No. 3, Udaipur (hereinafter referred to as "Court X"), to the Court of learned Family Court, Rajsamand (hereinafter referred to as "Court Y").

2. Learned counsel appearing on behalf of the petitioner submitted that the respondent-husband has instituted proceedings under Section 13 of the Hindu Marriage Act before Court X. It is urged that the petitioner-wife is presently residing at Rajsamand and is not in a position to undertake repeated travel to Udaipur for

attending the proceedings on every date of hearing. It has further been contended that the distance between the two places is approximately 60-65 kilometres and repeated travel would cause grave inconvenience, financial hardship and avoidable physical and mental distress to the petitioner. It is, therefore, prayed that the aforesaid proceedings be transferred from Court X to Court Y in the interest of justice and convenience of the parties.

3. This Court has given its thoughtful consideration to the submissions advanced at the Bar. At the outset, this Court deems it appropriate to observe that issuance of notice in every matrimonial transfer petition and keeping such matters pending for years together, particularly where interim stay orders continue to operate meanwhile, seldom advances the cause of justice. The experience of this Court demonstrates that in a considerable number of matters, transfer petitions remain pending merely at the stage of service and completion of pleadings for two to three years. Such prolongation neither subserves the institutional interest of expeditious adjudication nor secures the welfare of litigating spouses already embroiled in matrimonial discord. Rather, it unnecessarily prolongs the agony of parties and delays substantive adjudication of the disputes inter se them.

4. This Court cannot be oblivious to the fact that where the circumstances emerging from the record unmistakably indicate that the balance of convenience overwhelmingly leans in favour of one forum and the governing judicial precedents also support such transfer, insistence upon prolonged procedural formalities would only defeat the very object sought to be achieved. When the

ultimate outcome appears reasonably foreseeable in light of settled legal principles, deferring the matter for years merely for completion of service would amount to allowing procedure to overshadow justice itself.

5. The administrative as well as supervisory jurisdiction of this Court under Article 227 of the Constitution of India, read with the powers traceable to Section 24 of the Code of Civil Procedure, is sufficiently wide to enable this Court to exercise its jurisdiction even suo motu, wherever the ends of justice so demand. Such power can also be invoked on the administrative side to ensure effective and expeditious administration of justice. In the backdrop of the present matrimonial dispute, which has already consumed considerable time, this Court is of the considered opinion that prolonging the controversy by issuing notices and awaiting a contested adjudication on the question of transfer would only result in avoidable delay, thereby causing prejudice to both the husband and the wife. Matrimonial litigation, by its very nature, calls for a pragmatic and justice-oriented approach, and procedural formalities ought not to be permitted to defeat the larger objective of securing expeditious justice. Where the proposed course neither occasions prejudice to either party nor impinges upon their substantive rights, this Court would be justified in exercising its supervisory jurisdiction to obviate unnecessary delay and to ensure that the *lis* reaches its logical conclusion at the earliest.

6. This Court is conscious of the practical realities surrounding matrimonial litigations. In a large number of matrimonial disputes,

proceedings under Sections 498-A IPC, cases under D.V. Act, Section 125 Cr.P.C., petitions under Sections 9 and 13 of the Hindu Marriage Act and other allied proceedings are instituted at the place where the wife is residing. Consequently, even otherwise, the respondent-husband is invariably required to appear before the Courts situated at the place where transfer is sought. In such circumstances, requiring the wife to simultaneously contest proceedings instituted by the husband at another distant place results in avoidable multiplicity of travel, financial burden and mental hardship for both parties. This Court finds substance in the contention that where one spouse is already appearing before the Courts situated at the place where the other spouse resides, insistence upon continuation of connected matrimonial proceedings at different stations becomes wholly cumbersome and impractical. Consolidation of proceedings at one place not only minimises inconvenience but also facilitates coordinated adjudication and reduces the possibility of conflicting orders.

7. Ordinarily, the rule of *audi alteram partem* constitutes a foundational principle of natural justice and no order adverse to a party ought to be passed without affording an opportunity of hearing. However, it is equally well-settled that the application of such principle is not inflexible and may admit of exceptions where the circumstances so warrant. Mere transfer of proceedings from one competent forum to another does not, by itself, extinguish, dilute or adversely affect the substantive rights of either party. The merits of the case shall be examined by the Court and as such a simple order of a transfer of a case from one court to other

Court can't be construed as an order adversarial to the interest of the other party. Furthermore, where the respondent is already required to appear before Courts situated at the place where transfer is sought and is regularly attending proceedings thereat, no irreversible prejudice can be said to be occasioned merely by transfer of one additional connected proceeding to the same station.

8. This Court is, therefore, of the considered view that insistence upon issuance of notice in the peculiar facts of the present case would only prolong litigation without serving any meaningful purpose. Consequently, service upon the respondent deserves to be dispensed with. Thus, notice not required to be issued to the respondent.

9. Heard learned counsel for the petitioner and perused the material available on record.

10. The Hon'ble Supreme Court in ***Vinisha Jitesh Tolani @ Manmeet Laghmani v. Jitesh Kishore Tolani*** reported in (2010) 5 SCC 748 has observed that in matrimonial disputes instituted by the husband against the wife, the convenience of the wife deserves paramount consideration and ordinarily such proceedings should be adjudicated at a place proximate to the residence of the wife so as to obviate undue hardship.

11. Having regard to the aforesaid judicial pronouncement, the facts and circumstances of the present case, and the grounds urged in the transfer petition, this Court finds the present application deserving of acceptance.

12. Accordingly, the transfer petition is allowed. Consequently, Case No. 299/2024 presently pending before Court X is transferred to the Court of learned Family Court, Rajsamand (Court Y) for adjudication in accordance with law.

13. The learned Judge, Court X, is directed to forthwith transmit the entire record of the case to the transferee Court. He shall also prepare and forward a report containing particulars of all pending matrimonial or connected proceedings, if any, between the parties pending before his Court as on date and instituted thereafter.

14. It is further directed that henceforth the aforesaid proceedings shall proceed exclusively before the learned Family Judge, District Rajsamand.

15. This Court further considers it appropriate to direct that the learned District Judge concerned as well as the learned Judge, Family Court concerned, shall endeavour, to the extent administratively feasible, to ensure that all pending and future litigations between the parties are coordinated and listed on one and the same date so as to minimise multiplicity of appearances, avoid unnecessary inconvenience and secure the ends of justice.

16. It is made clear that while adjudicating the present transfer petition, this Court has neither examined nor expressed any opinion upon the merits of the disputes inter se the parties. The controversy raised in the substantive proceedings shall be independently adjudicated by the competent Court uninfluenced by any observation made herein. The present exercise is confined only to determination of the forum most conducive and convenient for fair adjudication of the disputes between the parties.

17. The stay application as well as all pending applications, if any, also stand disposed of accordingly.

(FARJAND ALI),J