

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

S.B. Civil Transfer Application No. 145/2024

Smt. Monika Vaishnav W/o Manish Vaishnav, Aged About 27 Years, D/o Govind Ram Vaishnav, R/o Beawar, Moti Nagar Sendara Road, Tehsil Beawar, Dist. Ajmer.

-----Petitioner

Versus

Manish S/o Narayan Lal Ji Vaishnav, R/o Pancham Nagar, Ramdev Road, Tehsil And Dist. Pali.

-----Respondent

Connected with

S.B. Civil Transfer Application No. 124/2025

Hemlata W/o Ritesh Vyas, Aged About 38 Years, R/o Outside Jassusar Gate Nandu Maharaj Ki Gali Bikaner

-----Petitioner

Versus

Ritesh Vyas S/o Purushottam Narayan Ji Vyas, R/o Madhuram 20E/11 Aadarsh Nagar Choupasni Housing Board Jodhpur

-----Respondent

S.B. Civil Transfer Application No. 155/2025

Smt. Mamta W/o Shri Ravi Das, Aged About 35 Years, D/o Shri Jagdish, At Present R/o E-106, Rameshwar Nagar, Phase - 1, Basni, Jodhpur (Raj.)

-----Petitioner

Versus

Ravi Das S/o Shri Kishan Das, R/o Aalasan District Jalore At Present R/o Jyoti Mobile Zone Door Number 32-5, 30 Mareka Street Near K.v.v. Swami Road Rajmandri District East Godawari (Andhra Pradesh)

-----Respondent

S.B. Civil Transfer Application No. 231/2025

Dr. Kanchan Bhati W/o Dr. Jitendra Singh Rajawat, Aged About 45 Years, Resident Of Village Rampur, Post Tiwari, District Jodhpur, Currently Resident Of C 179 Shastri Nagar Jodhpur, Office MDM Hospital Jodhpur, (Raj.).

-----Petitioner

Versus

Dr. Jitendra Singh Rajawat S/o Bhanwar Singh Rajawat, Aged About 45 Years, Resident Of Plot No. 13 Prem Colony, Near Airport, Tonk Road, Tehsil Sanganer, District Jaipur (Raj).

-----Respondent

S.B. Civil Transfer Application No. 334/2025

Smt. Neha Rao W/o Gopal Swaroop, Aged About 36 Years,
R/o Indra Colony, Chomu, police Station Chomu, District
Jaipur (Raj)

----Petitioner

Versus

Arvind Singh Tejawat S/o Ujjawal Singh Tejawat, Aged About
46 Years, R/o 37, Mansarovar Colony, Bedla Bhuwana Link
Road, Bedla, Udaipur, District Udaipur.

----Respondent

For Petitioner(s)	:	Mr. Avinash Bhati (in CTA No.145/24) Mr. Virendra Acharya (in CTA No.124/25) Mr. Ashvini Kumar Swami (in CTA No.155/25) Mr. Vikram Choudhary (in CTA No.231/25) Mr. Sandeep Saruparia (in CTA No.334/25)
For Respondent(s)	:	Mr. Dilip Singh Baghela (in CTA No.231/25) Mr. Arvind Singh Tejawat, respondent present in person (in CTA No.334/25)

HON'BLE MS. JUSTICE REKHA BORANA

Order

29/04/2026

1. As all these transfer applications arise out of similar circumstances and involve common questions of law, they are being decided by this common order.
2. All the petitions have been preferred by the petitioner–wife seeking transfer of proceedings instituted by the respondent–husband under various provisions of the Hindu Marriage Act, 1955/Guardians and Wards Act, 1890 to the Court within whose jurisdiction the petitioner–wife is presently residing/working.
3. The petitioners in the respective applications have invoked the jurisdiction of this Court under Section 24 of the Code of Civil

Procedure, praying that the various proceedings pending before different Courts be transferred to the place of their residence/workplace. Although the factual matrix in each petition varies, the grounds raised by the Petitioner wives are substantially common and relate to the hardships faced by them in attending proceedings at distant forums.

4. In all the present petitions, service upon the respondents stand duly complete. However, despite completion of service, none has appeared on behalf of the respondents in CTA Nos.145/2024, 124/2025 & 155/2025.

5. In some of the petitions, it has been urged that the petitioner-wife, being a woman with minor child/children solely under her care, faces grave difficulty in travelling long distances, particularly in the absence of any family member to accompany her, rendering such travel with minors practically impossible. In some matters, the petitioner-wife has asserted that she is financially dependent upon her parents, lacking any independent source of income.

6. While in other matters, it has additionally been submitted that the petitioner-wife has already instituted proceedings against her husband under Sections 12, 13, 17, 18, 19, 20, 21, 22 & 23 of the Protection of Women from Domestic Violence Act, 2005 / Section 144 of the BNSS, 2023 / Offences under Indian Penal Code at the place where she is presently residing. It is urged that, despite the pendency of these proceedings, the respondent-husband has instituted a separate case in another district/city/town only with the intent to cause harassment. In

these circumstances, it would be extremely difficult and practically impossible for her to attend the proceedings before the Court chosen by the husband.

7. Heard the Counsels.

8. It is a well-settled proposition of law that in matrimonial matters generally, it is the wife's convenience which must be looked at while considering the plea of transfer. In **N.C.V. Aishwarya Vs. A.S. Saravana Karthik Sha, (2022 INSC 1310)** (decided on 18.07.2022), the Hon'ble Apex Court held as under:

*"9.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.**"*

9. So far as the ground of the minor child/children being in the care and custody of the petitioner-wife is concerned, the Courts have consistently held that inconvenience is more on the part of the woman and she cannot be expected to travel long distances either while accompanying the minor or while leaving them in the care of others, to attend the proceedings regularly. Hon'ble the Apex Court in the case of **Reena Bahri Vs. Ajay Bahri, (2002) 10 SCC 136** held as under:

"2. The wife has a child, approximately three years old, with her in Bombay. She avers that she has no source of income and no one to travel with her from Bombay to Delhi. In the circumstances, she is unable to satisfactorily defend the divorce petition. It is contended on behalf of the husband that the transfer petition should be dismissed, and that he will pay for the wife's transport between Bombay and Delhi along with an escort, whenever required, as also pay for the travel of her witnesses in the matrimonial proceedings.

3. This misses two points. The first relevant circumstance is that there is a very small child with the wife in Bombay and the second is that the wife does not have anybody who can conveniently accompany her to Delhi. Apart from this, as is shown by the counter, there are already proceedings in Bombay which the husband has to defend. We think, in the circumstances, that the transfer petition should be allowed."

10. With respect to the plea of financial constraints, the petitioner-wife having no independent source of income, and further, old/ailing parents under care, it has been observed in several decisions that compelling a woman with limited means to travel long distances on each date of hearing would result in undue hardship. Hon'ble the Apex Court in the case of ***Vaishali Shridhar Jagtap Vs. Shridhar Vishwanath Jagtap, (2016 INSC 504)*** held as under:-

"3. According to the Appellant, her mother is aged and it is difficult for her mother to accompany the Appellant for her travel to Mumbai. It is also stated that there are three criminal cases-one for maintenance, the second under the Prevention of Domestic Violence Act, 2005 and the third Under Section 498A of The Indian Penal Code, 1860 and other related provisions, pending at Barshi, and one on the civil side for restitution.

...

5. Admittedly, the distance between Mumbai and Barshi is around 400 kilometres. Four cases between the parties are pending at Barshi. Apparently, the comparative hardship is more to the appellant-wife.

This aspect of the matter, unfortunately, the High Court has missed to take note of.

6. No doubt, the said evidence can be recorded on appearance of the petitioner either physically or by virtual mode but keeping in mind the over all situation and the facts and circumstances of the case, we consider it proper to transfer the subject-case as asked for by the petitioner-wife so that no prejudice is caused to the petitioner-wife."

11. Similar view was expressed by the Hon'ble Apex Court in

Leena Mukherjee Vs. Rabi Shankar Mukherjee, (2002) 10

SCC 480 :

"The petitioner is a resident of Durgapur, District Burdwan, West Bengal. She states that she is a distressed woman without any financial resources and that with the meagre income which she gets by way of maintenance, it is not possible for her to travel from Durgapur to Delhi to prosecute the case. She also submits that there is nobody to accompany her to Delhi. The above fact is not traversed in the counter affidavit. Having regard to the circumstances, we think that it would be appropriate to order transfer of the matrimonial suit from the Court of the Additional District Judge, Delhi."

12. So far as the plea of long-distance travel and the resultant inconvenience to the petitioner-wife is concerned, Bombay High Court, recently, while allowing the transfer petition in the case of

Archana Dattatray Jagtap Vs. Dattatray Chandev Jagtap,

(2025 SCC OnLine Bom 3920), held as under:

"6. Considering the law as laid down by the Supreme Court in the aforementioned judgments and the facts of the present case, where the distance between Malshiras, District Solapur, and Belapur is around 300 kms, in my view, it is inconvenient for the wife to travel 300 kilometres to attend the hearing and then return the same day, travelling 300 kms. To do so, she would have to stay overnight at Belapur to attend the proceedings filed by the husband. She has also filed three proceedings before the Court of Malshiras,

District Solapur. Hence, I am convinced that the transfer application deserves to be allowed."

13. Further, with regard to appearance through video conferencing is concerned, Hon'ble the Apex Court in the case of ***P. Prashanti Vs. P.V. Nandakumar, Transfer Petition (Civil) No. 1281/2024*** (decided on 06.01.2025) observed as under:

"3. Considering the fact that the petitioner-wife has two minor children, a boy and a girl to look after and that she is residing at Gurugram, Haryana, she has immense difficulty in attending court proceedings at Visakhapatnam, it would be expedient in the ends of justice to transfer the subject-case as asked for by the petitioner-wife.

4. The Transfer Petition stands allowed accordingly.

5. The Court where proceedings are pending shall transfer the records to the transferee Court promptly and without any delay.

6. Liberty is granted to the respondent to appear through video conferencing, in view of his medical condition, until and unless his physical presence is absolutely necessary."

14. Section 24 of the Code of Civil Procedure reads as under:-

"24. General power of transfer and withdrawal -

(1) On the application of any of the parties and after notice to the parties and after hearing such of them as desired to be heard, or of its own motion without such notice, the High Court or the District Court may at any stage,-

(a) transfer any suit, appeal or other proceeding pending before it for trial or disposal to any Court subordinate to it and competent to try or dispose of the same; or

(b) withdraw any suit, appeal or other proceeding pending in any Court subordinate to it; and

(i) try or dispose of the same; or

(ii) transfer the same for trial or disposal to any Court subordinate to it and competent to try or dispose of the same; or

(iii) retransfer the same for trial or disposal to the Court from which it was withdrawn.

(2) Where any suit or proceeding has been transferred or withdrawn under sub-section (1), the Court which [is thereafter to try or dispose of such suit or proceeding] may, subject to any special directions in the case of an order of transfer, either retry it or proceed from the point at which it was transferred or withdrawn.

(3) For the purposes of this section,-

(a) Courts of Additional and Assistant Judges shall be deemed to be subordinate to the District Court;

(b) "proceeding" includes a proceeding for the execution of a decree or order.

(4) The Court trying any suit transferred or withdrawn under this section from a Court of Small Causes shall, for the purposes of such suit, be deemed to be a Court of Small Causes.

(5) A suit or proceeding may be transferred under this section from a Court which has no jurisdiction to try it."

15. This Court observes that, in the ordinary course, transfer petitions instituted before this Court often remain pending for considerable periods, primarily on account of the other party evading service. In several matters, interim protection granted by this Court results in the matrimonial proceedings before the concerned Court remaining stalled for years.

16. In view of the aforesaid circumstances, and in order to secure the ends of justice as well as to ensure expeditious disposal of the proceedings, this Court considers it appropriate to exercise its powers under Section 24 of the Code of Civil Procedure. Accordingly, all the present transfer applications are **allowed** for the reasons analysed in the preceding paras.

17. Consequently, in each of the petitions noted hereinabove, the Court from which the case is being transferred and the Court to which it stands transferred are indicated as under:

S. No.	Civil Transfer Application Number & Title	Case Number (Family Court/Trial Court)	Court where the case is pending	Court where the case is to be transferred
1.	CTA 145/2024 (Smt. Monika Vaishnav Vs. Manish)	Case No. 48/2024 (Manish Vs. Monika Vaishnav)	Family Court, Pali,	Additional District Judge No.1, Beawer
2.	CTA 124/2025 (Hemlata Vs. Ritesh Vyas)	Case No.664/2024 (Ritesh Vyas Vs. Smt. Hemlata)	Family Court No.1, Jodhpur	Family Court No.3, Bikaner
3.	CTA 155/2025 (Smt. Mamta Vs. Ravi Das)	Case No.57/2025 (Ravi Das Vs. Smt. Mamta)	Family Court, Jalore	Family Court No.1, Jodhpur
4.	CTA 231/2025 (Dr. Kanchan Bhati Vs. Dr. Jitendra Singh Rajawat)	Case No.125/2025 (Dr. Jitendra Singh Rajawat Vs. Dr. Kanchan Bhati)	Additional District Judge No.10, Sanganer, Jaipur Metropolitan - 1	Family Court No.2, Jodhpur
5.	CTA 334/2025 (Smt. Neha Rao Vs. Arvind Singh Tejawat)	Case No.489/2025 (Arvind Singh Vs. Neha Rao)	Family Court No.1, Udaipur,	Family Court (Additional District Judge No.10), Jaipur Metropolitan-2, Headquarter Chomu

18. The transferor Court is directed to transmit entire record of the transferred matter to the transferee Court within a period of two weeks of receipt of the certified copy of the present order

while fixing the next date for appearance of both the parties before the transferee Court.

19. Both the parties shall remain present before the transferee Court on the date as fixed by the transferor Court and the transferee Court shall not be under an obligation to issue fresh notices to any of the parties. Only in cases where the other party remained unserved or is proceeded *ex-parte*, the transferee Court shall be under an obligation to issue fresh notices to the respondents and act further in accordance with law.

20. Needless to observe that if any application is filed by the respondent-husband with a request to permit him to appear through Video Conferencing, the learned Court shall be at liberty to decide the same keeping into consideration the fact whether the physical appearance of the respondent is essential on the each date or not.

21. Let a certified copy of the present order be sent forthwith to all the transferor as well as transferee Courts.

22. Stay applications and all pending applications, if any, stand **disposed of**.

(REKHA BORANA),J