



IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/MISC. CIVIL APPLICATION (FOR TRANSFER) NO. 806 of 2026

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR. JUSTICE MAULIK J.SHELAT

Approved for Reporting	Yes	No
		√

VIRALBEN JAYSUKHBHAI NAYAK & ANR.

Versus

NIKHILESHKUMAR DIPAKBHAI NAYAK

Appearance:

MR PREM SHAH FOR MR. MAULIK M SONI(7249) for the Applicant(s)
No. 1,2

MR AN PATHAN FOR MR. SHIVRAJ H SHAH(18851) for Opponent No. 1

CORAM:HONOURABLE MR. JUSTICE MAULIK J.SHELAT

**Date : 21/08/2026
JUDGMENT**

1. Rule returnable forthwith. Mr.Pathan, learned advocate waives service of rule for the opponent.

2. This application under Section 24 of Civil Procedure Code, 1908 (CPC) is filed by the applicants seeking transfer of Family Suit No.57 of 2025 pending before the Family Court at Lunawada at Mahisagar to the concerned Court at Patan.

3. Heard Mr.Prem Shah, learned advocate for the applicant and Mr.Pathan, learned advocate for the opponent.

4. Mr.Shah, learned advocate would submit that the applicant happens to be the wife who is residing with her



minor son at Patan, whereas the opponent has instituted the Family Suit at Mahisagar. The distance between Mahisagar and Patan is around 430 Kilometers (round trip) and it causes great hardship and inconvenience to the applicant. Mr.Shah, learned advocate would submit that maintenance proceedings are instituted by the applicant wife against the opponent against the competent Court at Patan, wherein even after the order passed by the Court concerned, the applicant is not getting regular maintenance. It is also submitted that the applicant has instituted recovery of maintenance proceedings against the opponent, which is pending before the competent Court at Patan, where the opponent is required to attend the proceedings.

5. *Per contra*, Mr.Pathan, learned advocate for the opponent would submit that there is no merit in the application. Lastly, he submits that the applicant can attend the proceedings through video conference and it would not cause any inconvenience to her.

6. At this stage, it would be fruitful to refer to the ratio laid down by the Hon'ble Supreme Court in the cases of :- **(i) Smita Singh Versus Kumar Sanjay - AIR 2002 SC 396, (ii) N.C.V. Aishwarya versus A.S. Saravana Karthik Sha - 2022 SCC OnLine SC 1199 : 2022 LiveLaw (SC) 627 and (iii) Ruchi Majoo v. Sanjeev Majoo, (2011) 6 SCC 479.**

7. Having heard the learned advocates for the respective parties and perusing the material on record, it remained undisputed that the applicant - wife is residing at Patan,



whereas the opponent has instituted Family Suit at Mahisagar, which is 430 Kilometers (round trip) away from her residence. This Court can also take note of the fact that despite order passed by the Court concerned granting maintenance, the opponent was not paying regular maintenance. Furthermore, the recovery of maintenance proceeding is already instituted by the applicant against the opponent at concerned Court, Patan, which the opponent is required to attend. Thus, considering overall facts and circumstances of the case as also keeping in mind the inconvenience that may cause to the applicant *vis-à-vis* the respondent which is much higher, this Court is inclined to exercise discretion in favour of the applicant.

8. In the backdrop as aforesaid, present application succeeds and is allowed accordingly. The Family Suit No.57 of 2025, pending before the Family Court at Mahisagar, is directed to be transferred to the concerned Court at Patan.

9. After the transfer of the above proceedings, it is requested to concerned Court at Patan to see that transferred family suit filed by opponent and the recovery proceeding instituted by applicant is pending before it be heard by same court. It will be open for the opponent to request the concerned Court at Patan to give common date in the proceedings which is ordered to be transferred and the proceedings pending before the concerned Court at Patan. If such a request will be made, the same may be considered sympathetically by the concerned Court.



10. It is also open for the opponent to request the concerned Court to join the proceedings through video conferencing / online mode and if such a request is made by the opponent, the Court concerned may also consider the same unless the physical presence of the opponent is required to attend the proceedings at a particular stage of proceedings.

11. In view of the above, the present application is allowed in terms of para 7(ii). Rule is made absolute, accordingly.

GAURAV J THAKER

(MAULIK J. SHELAT, J)