



2026:AHC:140815

HIGH COURT OF JUDICATURE AT ALLAHABAD
TRANSFER APPLICATION (CIVIL) No. - 1009 of 2025

Arshad Hussain

.....Applicant(s)

Versus

Nazia Parveen

.....Opposite Party(s)

Counsel for Applicant(s)	:	Anil Kumar Dubey, Anubhav Shukla, Chandra Bhan Dubey
Counsel for Opposite Party(s)	:	Jagdish Prasad Mishra

AFR

Court No. - 35

HON'BLE DR. YOGENDRA KUMAR SRIVASTAVA, J.

1. Heard Shri Chandra Bhan Dubey, learned counsel for the applicant, and Shri Jagdish Prasad Mishra, learned counsel for the opposite party.

2. The present application under Section 24 of the Code of Civil Procedure has been filed seeking transfer of Divorce Case No.30 of 2024 (Arshad Hussain vs. Nazia Parveen), instituted by the applicant for dissolution of marriage and presently pending before the Court of the Additional Principal Judge, Family Court No.1, Muzaffarnagar, to a court of competent jurisdiction at Meerut or, in the alternative, at Bijnor.

3. The applicant, who is the husband and petitioner in the aforesaid proceedings, seeks transfer essentially on two grounds. First, it is urged that upon an application dated 16.10.2025 moved by the opposite party, a recommendation had earlier been made for transfer when the matter was pending before the Court of the Additional Principal Judge, Family Court No.2, Muzaffarnagar. Secondly, it is contended that the real brother of the opposite party is a practising Advocate at Muzaffarnagar and, therefore, in the interest of justice, the proceedings ought to be transferred outside the district.

4. *Per contra*, learned counsel for the opposite party submits that, upon the earlier application, a report was called for from the Presiding Officer of Family Court No. 2,

advance the ends of justice. It does not confer upon a litigant any vested right to choose a forum. The discretion is to be exercised judiciously, upon objective considerations, and only where circumstances indicate that transfer is necessary to secure a fair trial or to prevent failure of justice.

6. The power under Section 24 CPC is to be exercised in circumstances which would lead a reasonable and prudent person to apprehend that continuance of proceedings before the existing court may result in denial of fair adjudication. Mere conjectures, unfounded apprehensions, or subjective perceptions of prejudice are insufficient to justify transfer. The apprehension pleaded must be real, reasonable, and bona fide, and not imaginary or speculative.

7. It is well settled that the power of transfer is an extraordinary discretionary power to be exercised sparingly and with circumspection. The applicant must establish a real, reasonable, and bona fide apprehension that justice is unlikely to be administered fairly by the court concerned. Such apprehension must rest on objective material and must be of a nature that would commend itself to a reasonable person. Vague allegations or speculative assertions cannot furnish a valid foundation for transfer.

8. Insofar as the first ground is concerned, the earlier transfer of the case from one Family Court to another within the same district does not furnish any basis for transfer to another district. The record indicates that upon consideration of the registered Misc. Civil Case moved by the opposite party, a report was called for from the concerned Presiding Officer, who expressed no objection. Thereupon, by order dated 27.10.2025, the Principal Judge, Family Court, Muzaffarnagar transferred the proceedings from Family Court No. 2 to Family Court No. 1 for disposal in accordance with law. Such transfer within the judgeship cannot be construed as conferring any right upon the applicant to seek transfer outside the district.

9. The proceedings are presently pending before a competent court within the same judgeship pursuant to the aforesaid order. The grievance which formed the basis of the earlier transfer thus no longer survives. That circumstance, by itself, cannot justify transfer to another district.

10. The second ground, namely that the real brother of the opposite party is a practising Advocate at Muzaffarnagar, is equally untenable. Apart from a bald assertion, no material has been brought on record to demonstrate any prejudice, undue influence, intimidation, or denial of fair opportunity in the conduct of the proceedings.

real and reasonable apprehension of prejudice, bias, or failure of justice, such a circumstance cannot constitute a legally sustainable ground for transfer of judicial proceedings. A transfer cannot be ordered on the basis of conjectures, surmises, or unfounded apprehensions.

12. To hold that the mere fact that a relative of one of the parties is practising as an Advocate in the judgeship is, by itself, a sufficient ground for transfer would lead to anomalous consequences. If that circumstance were, by itself, to be regarded as sufficient to warrant transfer, the place of trial would come to depend upon fortuitous personal circumstances rather than principled judicial standards. Such an approach would be inconsistent with the presumption that courts act fairly, independently and in accordance with law. The jurisdiction under Section 24 CPC is intended to safeguard the administration of justice where a real and reasonable apprehension of prejudice is shown on objective material; it is not intended to accommodate speculative concerns resting solely on the professional identity or relationship of a person connected with one of the parties, or on generalized suspicions incapable of objective verification.

13. In the present case, no such objective material has been placed before the Court. The power to transfer proceedings is not intended to be exercised as a matter of routine, and the circumstances disclosed by the applicant do not give rise to any reasonable apprehension that justice will not be done if the proceedings continue before the court where they are pending. Apart from the aforesaid submissions, no other ground has been pressed in support of the transfer application.

14. This Court, therefore, finds no sufficient cause warranting transfer of the proceedings from the Court of the Additional Principal Judge, Family Court No.1, Muzaffarnagar.

15. The transfer application is devoid of merit and is, accordingly, **dismissed**.

16. No order as to costs.

July 13, 2026
Priyanka

(Dr. Yogendra Kumar Srivastava,J.)