



2026:AHC:152286

HIGH COURT OF JUDICATURE AT ALLAHABAD

TRANSFER APPLICATION (CIVIL) No. - 900 of 2023

Preeti Mishra and another

.....Applicant(s)

Versus

Vishnu Kant Tripathi and another

.....Opposite Party(s)

Counsel for Applicant(s) : Arvind Srivastava, Mohd. Naushad
Siddiqui

Counsel for Opposite Party(s) : Rajeev Tiwari

A.F.R.

Court No. - 35

HON'BLE DR. YOGENDRA KUMAR SRIVASTAVA, J.

1. Heard Mohd. Naushad Siddiqui, learned counsel for the applicants and Sri Rajeev Tiwari, learned counsel for the opposite party.

2. Present application has been filed seeking transfer of O.S. No. 170 of 2023 (Vishnu Kant Tripathi and another Vs. Anurag Shukla and

given in adoption to the applicants. It is stated that ever since the execution of the said deed, the applicants have been taking care of the adopted child and she has settled in their family.

4. It is further submitted that subsequently the respondents started exerting pressure upon the applicants for return of the minor child. In the aforesaid circumstances, the applicants instituted O.S. No. 2465 of 2022 before the Court of Civil Judge (Junior Division), Kanpur Nagar seeking a declaration that the adoption deed dated 30.06.2022 is legal, valid and binding upon the parties. The said suit is stated to be pending.

5. It is then urged that thereafter the respondents instituted O.S. No. 170 of 2023 before the Court of Civil Judge (Junior Division), Kannauj seeking cancellation of the very same adoption deed dated 30.06.2022. By means of the present application, the applicants seek transfer of the subsequent suit to Kanpur Nagar so that both proceedings involving the same parties and arising out of the same adoption deed may be adjudicated by the same Court.

6. Learned counsel appearing for the opposite parties, on instructions, fairly states that the opposite parties have no objection if the suit pending at Kannauj is transferred to a Court of competent jurisdiction at Kanpur Nagar.

7. The Court has considered the submissions advanced by learned counsel for the parties.

8. The power conferred upon this Court under Section 24 of the Code of Civil Procedure, 1908¹ is discretionary and is intended to advance the cause of justice. While exercising such jurisdiction, the

questions of fact and law, and facilitating a consistent and effective adjudication of related disputes.

9. The jurisdiction under Section 24 CPC is equitable in nature and is to be exercised whenever the exigencies of justice so require. The provision is not confined to cases where hardship or inconvenience alone is established; it equally enables the Court to regulate the course of judicial proceedings in a manner that secures an effective, efficient and comprehensive adjudication of the controversy. The ultimate touchstone is whether the proposed transfer would better serve the administration of justice.

10. In the present case, it is not in dispute that both the suits are between the same parties and arise out of the same registered adoption deed dated 30.06.2022. While the earlier suit pending before the competent Court at Kanpur Nagar seeks a declaration regarding the validity and binding nature of the adoption deed, the subsequent suit instituted at Kannauj seeks cancellation of the very same document. The principal controversy in both proceedings is, therefore, substantially identical.

11. The validity of the adoption deed constitutes the foundational issue in both suits. Consequently, the evidence likely to be adduced and the questions requiring determination would substantially overlap. Any adjudication rendered in one proceeding is likely to have a direct and substantial bearing upon the issues arising in the other. If the proceedings are permitted to continue independently before different Courts, there exists a real possibility not only of duplication of evidence but also of inconsistent decrees in relation to the same document.

same Court. Such a course promotes judicial consistency, procedural economy and certainty in the adjudicatory process, besides avoiding unnecessary duplication of judicial effort.

13. Ordinarily, where two suits involving substantially the same subject matter are pending before different Courts of competent jurisdiction, the Court in which the earlier proceeding is pending constitutes the more appropriate forum for continuation of the subsequent proceeding, unless compelling circumstances indicate otherwise. In the present case, the earlier declaratory suit was instituted before the competent Court at Kanpur Nagar and continues to remain pending. No circumstance has been brought to the notice of the Court which would justify departure from the aforesaid course.

14. Though the categorical 'no objection' expressed by the opposite parties is a relevant circumstance, the exercise of jurisdiction under Section 24 CPC cannot rest upon consent alone. The Court is required to independently satisfy itself that the proposed transfer would advance the ends of justice. Upon a consideration of the facts of the present case, this Court finds that transfer of the subsequently instituted suit to the Court at Kanpur Nagar would facilitate a comprehensive, effective and consistent adjudication of the entire controversy between the parties while obviating the possibility of conflicting decrees. The stand adopted by the opposite parties further demonstrates that no prejudice is likely to be caused to either side by the proposed transfer.

15. The discretion under Section 24 CPC is to be exercised not merely for the convenience of the parties but to ensure the orderly administration of justice. Where the controversy in two proceedings is

different course. No such compelling circumstance exists in the present case.

16. Having regard to the identity of the parties, the commonality of the issues involved, the pendency of the earlier suit before the competent Court at Kanpur Nagar and the overall interests of justice, this Court is satisfied that the present is a fit case for exercise of jurisdiction under Section 24 of the Code of Civil Procedure.

17. The Transfer Application is, accordingly, **allowed** with the following directions:

(i) O.S. No. 170 of 2023 (Vishnu Kant Tripathi and another Vs. Apurva Shukla and another), pending before the Court of Civil Judge (Junior Division), Kannauj, is hereby withdrawn from the Court of Civil Judge (Junior Division), Kannauj and transferred to the Court of the Civil Judge (Junior Division), Kanpur Nagar, having jurisdiction to try the same.

(ii) The Civil Judge (Junior Division), Kannauj shall transmit the entire original record of the aforesaid suit to the transferee Court within a period of fifteen days from the date of receipt of a certified copy of this order.

(iii) Upon receipt of the record, the transferee Court shall proceed with the suit from the stage at which it stands transferred and shall, subject to the provisions of law and after hearing the parties, consider the desirability of hearing O.S. No. 170 of 2023 along with O.S. No. 2465 of 2022, or of adopting such other procedure as may be permissible in law, so as to secure an effective adjudication of the disputes and avoid