

No	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGES'S ORDERS
			C24 No.7 of 2021 <u>Hon'ble Manoj Kumar Tiwari, A.C.J.</u> Mr. Rahul Consul, Advocate for the applicant. Mr. Deep Prakash Bhatt, Advocate for the respondent. 2. This is an application under Section 24 C.P.C. by the wife for transfer of a suit filed by her husband (respondent) under Section 13 of Hindu Marriage Act from the Court of Civil Judge (Senior Division), Pithoragarh to Family Court, Khatima. 3. According to applicant, her marriage with respondent was solemnized, on 01.05.2004 and one daughter and a son were born out of the wedlock; both of them are minor and are now studying at Khatima. The suit for divorce was filed by respondent at Pithoragarh in the year 2019. Applicant has sought transfer of the said suit on the ground that she is living all alone at Khatima with the minor children and she is anyhow managing affairs by doing menial jobs; she was granted interim maintenance of ₹5,000/- per month in proceedings under Domestic Violence Act by learned Additional Chief Judicial Magistrate, Khatima, however, respondent was not paying the amount, as ordered in those proceedings, therefore, it is not possible for the applicant to visit Pithoragarh for contesting the suit for divorce filed by

		her husband. 4. Learned counsel for the respondent admits that Pithoragarh is at a distance of more than 200 kms. from Khatima and, being a hill district, it takes at least 7 hours for reaching Pithoragarh from Khatima. He, however, submits that applicant is residing in the house belonging to the respondent, where parents of the respondent were also residing, however, due to the problems created by the applicant, parents of the respondent are forced to live in a rented accommodation at Khatima. 5. Hon'ble Supreme Court in the case of Rajani Kishor Pardeshi Vs. Kishor Babulal Pardeshi, reported in (2005) 12 SCC 237, while dealing with transfer proceedings of matrimonial dispute, held that, in such matters, convenience of wife is to be preferred over the convenience of husband and, accordingly, transferred the proceedings of a matrimonial case to the place, where wife was residing. 6. A Division Bench of Tripura High Court in the case of Smt. Dipika Sharma (Chakraborty) Vs. Shri Sudip Sharma & other connected petitions, reported in 2016 SCC On Line Tri 505, after considering the law on the point, has held that there is no legal embargo from transferring a matrimonial dispute from Civil Court to a Family Court. 7. In the present case also, applicant is the wife, who is residing at Khatima with her minor children. It would be difficult for her to contest proceedings in
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			the Divorce Suit, which is pending at Pithoragarh, as Pithoragarh is more than 200 kms. away from Khatima and the time taken for reaching Pithoragarh to Khatima is more than 7 hours. 8. In such view of the matter, the Transfer Application is allowed. Original Suit, being H.M. No.176 of 2019, pending before learned Civil Judge (Senior Division), Pithoragarh is transferred to a Court of competent jurisdiction at Khatima, District Udham Singh Nagar. The record of the case shall be transferred to the transferee Court, within three weeks. The Transferee Court shall make endeavour to decide the aforesaid suit filed by the respondent, within one year. Unnecessary adjournment to parties shall be avoided. 9. Registry shall communicate this order to both the Courts, within one week. (Manoj Kumar Tiwari, A.C.J.) 21.12.2023 Arpan
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