

SL. No	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGES'S ORDERS
			C24 No. 53 of 2022 <u>Hon'ble Manoj Kumar Tiwari, ACJ</u> (1) Mr. I.P. Kohli, learned counsel for the applicant. (2) Mr. A.M. Saklani and Mr. M.C. Upadhyaya, Advocates for the respondent. (3) This is a transfer application filed under Section 24 of Code of Civil Procedure. Applicant has sought transfer of Original Suit No. 433 of 2021, filed by respondent under Section 13 of Hindu Marriage Act, from the Court of Judge, Family Court, Kashipur, District Udham Singh Nagar to Principal Judge, Family Court, Dehradun. (4) It is contended that applicant is residing with her old & ailing mother at Dehradun since 2018 and her father has passed away much earlier. It is further contended that applicant has to support two minor children aged about 10 & 8 years and in the absence of any source of income, she is finding it difficult to make both ends meet. It is further contended that suit for divorce has been filed by respondent at Kashipur, which is at a distance of more than 200 kms from Dehradun and being a single parent, it is not possible for the applicant to travel from Dehradun to Kashipur on each date. (5) Mr. I.P. Kohli, learned counsel for applicant points out that respondent is financially well off, who is serving as

			Colonel in Indian Army, therefore, he can very well manage to come to Dehradun; he further submits that presently he is posted at Kerala. (6) Learned counsel for respondent, however, submits that applicant is getting a handsome amount as maintenance each month, therefore, the plea of financial hardship, raised on behalf of applicant, is unacceptable. He, however, submitted that instead of Dehradun, the suit for divorce may be transferred to Haridwar. (7) Hon'ble Supreme Court in the case of <i>N.C.V. Aishwarya vs A.S. Saravana Karthik Sha</i>, reported in <i>2022 SCC Online SC 1199</i> has considered and discussed the scope of power under Section 24 of C.P.C. Para 9 of the said judgment, which is relevant to the case, reads 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 of life. Given the prevailing social-economic paradigm in the Indian society, generally, it is the wife's convenience which must be looked at while considering transfer.” (8) Applicant is a lady with two minor children and she would face more hardship, in case her prayer for transfer of case is not acceded to. Since respondent is posted at
--	--	--	---

			Kerala, therefore, it would be easy for him to visit Dehradun, compared to Kashipur, as Dehradun is having air connectivity with all major cities. Having regard to the attending facts and circumstances of the case, the transfer application is liable to be allowed. (9) In view of the above facts, transfer application is allowed. The transferee court is requested to make endeavour to decide the suit as early as possible. (10) Let the record of Original Suit No. 433 of 2021 be transferred from Judge, Family Court, Kashipur, District Udham Singh Nagar to Principal Judge, Family Court, Dehradun. (11) Registry is directed to send a copy of this order to Family Court, Kashipur and Family Court, Dehradun for necessary compliance. (Manoj Kumar Tiwari, ACJ) 19.12.2023 Aswal
--	--	--	---

--	--	--	--