

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/MISC. CIVIL APPLICATION (FOR TRANSFER) NO. 1123 of 2023**

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ILABEN DIPAKKUMAR PATEL

Versus

DIPAKBHAI MAFATLAL PATEL

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Appearance:

MR V A ZALA(11441) for the Applicant(s) No. 1

MR AMIT P SOLIYA(10780) for the Opponent(s) No. 1

MR.JAY S SHAH(7244) for the Opponent(s) No. 1

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CORAM:HONOURABLE MR. JUSTICE SANDEEP N. BHATT**Date : 01/03/2024****ORAL ORDER**

1. The present application is filed under Section 24 of the Code of Civil Procedure, 1908 by the applicant, to transfer Family Suit No.157 of 2022 pending with the learned Principal Judge, Family Court at Mehsana to Family Court at Bhavnagar.

2. Heard learned advocates for the parties.

3. Rule. Learned advocate Mr.Soliya waives service of notice of rule for respondent. Learned advocate Mr.Soliya strongly objected to the transfer of the proceedings.

4. Learned advocate for the applicant has submitted that she is residing at Bhavnagar and therefore she is facing

difficulty to travel to Mehsana with aged parents and two children.

5. 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* reported in *AIR 2002 SC 396* and (ii) *N.C.V. Aishwarya versus A.S. Saravana Karthik Sha reported in 2022 LiveLaw (SC) 627*.

6. In matrimonial matters, wherever it is required to be considered the plea of transfer, it should be taken 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 to life.

7. Considering the averments made by learned advocate appearing for the respective parties and considering the ratio as laid down by the Hon'ble Supreme Court in the case of *Smita Singh (Supra)* and *N.C.V. Aishwarya (supra)*, so also considering the facts of the present case and also considering the hardship of the applicant, the ends of justice should demand the transfer of the proceeding/s in question

under Section 24 of the Code, this Court deems it fit to accept the submissions advanced by the learned advocate appearing for the applicant and transfer the proceedings i.e. Family Suit No.157 of 2022 pending with the learned Principal Judge, Family Court at Mehsana to Family Court at Bhavnagar, with all ancillary proceedings, if any. Order accordingly.

8. The present application is accordingly allowed. Rule is made absolute accordingly.

9. It is expected that the trial Court concerned should hear all the proceedings together, if any, if possible, so as to avoid multiplicity in trial of the same issues and conflict of decisions.

Direct service is permitted.

(SANDEEP N. BHATT,J)

SRILATHA