IN THE HIGH COURT OF ORISSA, CUTTACK

TRP(C) No.102 of 2026

CNR No. ODHC010256022026

Smitarani Jena ..... Petitioner

-Versus-

Kalinga Mohanty ..... Opposite Party

For Petitioner : Mr. S.R. Mohapatra, Advocate

For Opposite Party : Ms. Ruparekha Jena, Advocate

CORAM: JUSTICE SANJAY KUMAR MISHRA

Date of Hearing & Judgment: 27.10.2026

S.K. MISHRA, J.

1. The present transfer petition has been preferred by the Petitioner-wife, under Section 24 of the Code of Civil Procedure, for transfer of the proceeding in CP No.01 of 2026, pending in the Court of learned Judge, Family Court, Cuttack, to the Court of learned Judge, Family Court, Jajpur on the grounds detailed therein.

2. Though, being noticed, the Opposite Party-husband has appeared in the present case, but no written objection has been filed till date opposing to such prayer for transfer, as prayed for.

3. However, on being asked, learned Counsel for the Opposite Party-husband submits, she has no objection to the prayer for transfer, as at the instance of the present Petitioner, two proceedings, i.e., Cr.P. No.60 of 2026 and CP No.108 of 2026, are pending before the Court of learned Judge, Family Court, Jajpur, in which cases her client, upon being noticed, has appeared and contesting the said cases at Jajpur.

4. Law is also well settled that while considering application for transfer of matrimonial proceedings, convenience of wife must be looked at. That apart, when two matrimonial proceedings between the parties, i.e., under Section 9 of the Hindu Marriage Act, 1955, for Restitution of Conjugal Rights and under Section 13(1) of the Hindu Marriage Act, 1955 for divorce, are pending in the different Courts between the same parties, which raise common questions of fact and law, and when the decisions in the cases are interdependent, it is desirable that they should be tried together. In ***N.C.V. Aishwarya Vs. A.S. Saravana Karthik Sha),*** reported in 2022 SCC OnLine SC 1199, the Supreme Court held as follow:

> *"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 behavioral 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. ***Given the prevailing socio-economic paradigm in the Indian society, generally, it is the wife's convenience which must be looked at while considering transfer."***

10. ***Further, when two or more proceedings are pending in different Courts between the same parties which raise common question of fact and law, and when the decisions in the cases are interdependent, it is desirable that they should be tried together by the same Judge so as to avoid multiplicity in trial of the same issues and conflict of decisions."***

(Emphasis supplied)

5. Hence, in view of such concession made by the learned Counsel for the Opposite Party-husband and the settled position of law, prayer for transfer of proceeding in CP No.01 of 2026 from the Court of learned Judge, Family Court, Cuttack to the Court of learned Judge, Family Court, Jajpur is allowed.

6. Accordingly, the learned Judge, Family Court, Cuttack is directed to transmit the case record in C.P. No.01 of 2026 to the Court of learned Judge, Family Court, Jajpur at the earliest,

preferably, within a period of seven days from the date of production of certified copy of this Judgment.

7. On receiving the case record in C.P. No.01 of 2026 from the Court of learned Judge, Family Court, Cuttack, the Court of learned Judge, Family Court, Jajpur shall re-register the said case, if so required, and proceed further in accordance with law giving due opportunity to both the parties.

8. Since the C.P. No.108 of 2026 preferred by the present Petitioner-wife under Section-9 of the Hindu Marriage Act, 1955 is pending before the learned Judge, Family Court, Jajpur, as indicated above, to avoid multiplicity of proceedings so also conflicting judgements, both CP No.01 of 2026 and CP. No.108 of 2026 be tried together. It is expected that learned Judge, Family Court, Jajpur shall do well to conclude both the proceedings at the earliest.

9. It is made clear that both the parties will be at liberty to appear before the Court of learned Judge, Family Court, Jajpur through virtual mode, with due permission of the concerned Court, in case they face any difficulty on any date to appear physically before the said Court.

10. The learned Judge, Family Court, Jajpur is requested to explore the facility of video conferencing available in the said Court and allow the parties to appear through video conferencing mode, following the guidelines prescribed under the "High Court of Orissa and District Courts Use of Electronic Communication and Audio-Video Electronic Means Rules, 2025".

11. However, on the dates of effective hearing i.e. for examination and cross-examination of witnesses and other purposes, for which their presence may be required by the Court and if it is so ordered, the parties so also their witnesses, if any, shall remain physically present before the learned Judge, Family Court, Jajpur.

12. To avoid delay and notice, the parties are directed to make a query themselves or through their Counsel from the Court of learned Judge, Family Court, Jajpur to ascertain the date and purpose of posting of CP No.01 of 2026 and participate in the said proceeding.

13. Both the parties are further directed not to seek for unnecessary adjournments and cooperate with the learned Judge, Family Court, Jajpur, for early disposal of both the C.Ps, as directed above.

14. With the said observation and direction, the transfer petition stands disposed of.

15. Interim order dated 30.04.2026 passed in I.A. No.141 of 2026 stands vacated. The said IA also stands disposed of.

16. Office is directed to communicate a copy of this Judgment to the Court of learned Judge, Family Court, Cuttack so also the learned Judge, Family Court, Jajpur enabling the said Courts to act in terms of the observations made above.

Urgent certified copy of this Judgment be granted on proper application as per rules.

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S.K. Mishra, J.

Orissa High Court, Cuttack.
Dated, 27th October, 2026/ Mona

Signature Not Verified
Digitally Signed
Signed by: MONALISA SWAIN
Reason: Authentication
Location: High Court of Orissa
Date: 28-Oct-2026 18:35:17