IN THE HIGH COURT OF ORISSA, CUTTACK

TRP(C) No.121 of 2026

CNR No.ODHC010262522026

Banaja Rout ..... Petitioner

-Versus-

Rashmi Ranjan Nayak ..... Opposite Party

Advocate for the parties

For Petitioner : Mr. Akansh Acharya, Advocate

For Opposite Party : Mr. Abhijit Das, Advocate

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CORAM: JUSTICE SANJAY KUMAR MISHRA

Date of Hearing & Judgment: 29.10.2026

S.K. MISHRA, J.

1. This transfer petition has been filed by the Petitioner-wife under Section 24 of the Code of Civil Procedure, 1908 for transfer of proceeding in C.P. No.130 of 2026 filed under Section 9 of the Hindu Marriage Act, 1955 for restitution of conjugal rights by the Opposite Party-husband, pending in the Court of learned

Judge, Family Court, Cuttack, to the Court of learned Judge, Family Court, Kendrapada on the grounds detailed therein.

2. It would be apt to mention here that, before taking up the matter for hearing, on the request of learned counsel for the parties, the parties were sent for mediation, which was failed.

3. Hence, though no written objection has been filed opposing to the prayer for transfer, on consent of learned Counsel for the parties, the transfer petition is taken up for hearing and disposal at the stage of admission permitting the learned Counsel for the Opposite Party to have his oral objection to the prayer for transfer.

4. Heard learned Counsel for the parties.

5. Reiterating the grounds urged in the transfer petition, learned Counsel for the Petitioner-wife submits, the Petitioner is a deserted lady. After her desertion, she is staying with her parents at Kendrapada. She is having a minor girl child, who is around 2 years old. She has no source of income to maintain herself as well as her minor girl child and is totally dependent on her parents. She has filed CRP No.190 of 2025 under Section 144 BNSS, 2023. before the learned Judge, Family Court, Kendrapada seeking maintenance. After, being noticed in CRP No.190 of 2025, intentionally to harass the Petitioner-wife to get maintenance, he

has filed C.P. No.130 of 2026, under Section 9 of the Hindu Marriage Act, 1955 for restitution of conjugal rights before the learned Judge, Family Court, Cuttack. Since the Opposite Party-husband is at present working as a Supervisor at SGB Brand Safe Way Pvt. Ltd. under TATA Steel, Meramandali, Dhenkanal, he will no-way be prejudiced, if C.P. No.130 of 2026 is transferred to Kendrapada. That apart, he is earning a handsome salary of more than Rs.50,000/- along with other agricultural earnings from his farmland in Kendrapada. Rather, the Petitioner-wife, being a destitute lady having a minor girl child of 2 years, it would be difficult on her part to attend the day-to-day proceeding in C.P. No.130 of 2026 at Cuttack.

6. Per contra, learned Counsel for the Opposite Party-husband submits, as the Opposite Party-husband is serving in a private company at Dhenkanal, it would be difficult on the part of the Opposite Party-husband to travel and attend the day-to-day proceeding at Kendrapada by seeking frequent leave. However, learned Counsel for the Opposite Party-husband further submits, if this Court intends to allow the prayer made in the transfer petition, his client be permitted to appear through virtual mode, in case, on any date he faces any difficulty to appear physically before the learned Judge, Family Court, Kendrapada.

7. Law is well settled that, while dealing with transfer petitions in matrimonial cases, convenience of the wife must be looked at. In ***N.C.V. Aishwarya Vs. A.S. Saravana Karthik Sha,*** reported in 2022 SCC OnLine SC 1199, the Supreme Court held as follows:

> *"**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 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**."*
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> ***(Emphasis supplied)***

8. After going through the pleadings made in the transfer petition so also taking note of the contentions made by learned Counsel for the parties and the settled position of law, this Court is inclined to allow the prayer made in the transfer petition.

9. Accordingly, the learned Judge, Family Court, Cuttack is directed to transmit the case record in C.P No.130 of 2026 to the Court of learned Judge, Family Court, Kendrapada at the earliest, preferably within a period of one week from the date of production of certified copy of this judgment.

10. On receiving the case record in C.P No.130 of 2026 from the Court of learned Judge, Family Court, Cuttack, the Court of learned Judge, Family Court, Kendrapada shall re-register the said case, if so required, and proceed further in accordance with law giving due opportunity to both the parties

11. For convenience of the parties, the Court of learned Judge, Family Court, Cuttack is requested to explore the facilities of Video Conferencing available in the said Court and permit the parties to appear before him through virtual mode, following due procedure as prescribed under "High Court of Orissa and District Courts Use of Electronic Communication and Audio-Video Electronic Means Rules, 2025", if so prayed by any of the parties. 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 below and if it is so ordered, the parties shall remain physically present before the Court of learned Judge, Family Court, Kendrapada.

12. To avoid delay and notice, the parties are directed to make a query themselves or through their counsel regarding the date and purpose of posting of C.P No.130 of 2026 and attend the Court of learned Judge, Family Court, Kendrapada.

13. Both the parties are further directed not to seek for unnecessary adjournments and cooperate with the Court of learned Judge, Family Court, Kendrapada, who shall do well to conclude the proceeding in C.P No.130 of 2026 at the earliest.

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

15. Office is directed to communicate a copy of this Judgment to the Court of learned Judge, Family Court, Kendrapada for compliance.

16. Interim order dated 30.04.2026 passed in I.A. No.119 of 2026 stands vacated and the said I.A. stands disposed of accordingly.

17. 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, 29th October, 2026/ Kanhu

Signature Not Verified
Digitally Signed
Signed by: KANHU BEHERA
Designation: JUNIOR STENOGRAPHER
Reason: Authentication
Location: High Court of Orissa, Cuttack.
Date: 30-Oct-2026 16:33:24