IN THE HIGH COURT OF ORISSA, CUTTACK

TRP(C) No.381 of 2024

(CNR No. ODHC010851742024)

Ankita Kumari Tripathy @ Patra ..... Petitioner

-Versus-

Krushna Prasad Patra ..... Opposite Party

TRP(C) No.389 of 2024

(CNR No.ODHC010851662024)

Ankita Kumari Tripathy @ Patra ..... Petitioner

-Versus-

Krushna Prasad Patra ..... Opposite Party

Advocate for the parties

For Petitioner : ***Mr. S.K. Mishra, Sr. Advocate***
(In both the transfer petitions) *Along with*
Ms. P.S. Mohanty, Advocate

For Opposite Party : ***Mr. B.P. Tripathy, Sr. Advocate***
(In both the transfer petitions) *Along with*
Mr. Subhankar Das, Advocate

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CORAM: JUSTICE SANJAY KUMAR MISHRA

Date of Hearing & Judgment: 28.10.2026

S.K. MISHRA, J.

1. TRP(C) No.381 of 2024 has been filed by the Petitioner-wife under Section 24 of the Code of Civil Procedure, 1908, seeking transfer of C.P. No.280 of 2021, filed by the Opposite Party-husband under Section 13(1) of Hindu Marriage Act, 1955 for dissolution of marriage, pending before the Court of learned Judge, Family Court, Berhampur to the Court of the learned Judge, Family Court, Bhubaneswar, on the grounds stated therein.

Similarly, in TRPC No.389 of 2024, which is also on board today, the Petitioner-wife has also sought for transfer of C.P. No.305 of 2021, instituted by her under Section 9 of the Hindu Marriage Act, 1955 for restitution of conjugal rights, from the Court of the learned Judge, Family Court, Berhampur, to the Court of the learned Judge, Family Court, Bhubaneswar, on the self same grounds as stated in TRP(C) No.381 of 2024.

2. Since both the transfer petitions involve the same parties and arise out of connected matrimonial proceedings, and the grounds urged in support of the prayers for transfer

are substantially identical, both the matters are taken up together for hearing and disposal by way of this common judgment.

3. Heard Mr. Mishra, learned Sr. Advocate appearing for the Petitioner so also Mr. Tripathy, learned Sr. Advocate appearing for the Opposite Party.

4. Reiterating the grounds urged in the transfer petitions, Mr. Mishra, learned Senior Advocate for the Petitioner-wife submits, at the time of institution of both the matrimonial proceedings, the Petitioner was residing at Berhampur with her aged and ailing parents and was employed at Bengaluru. Subsequently, she left her employment at Bengaluru and joined a new job at Bhubaneswar, where her aged and ailing parents had also shifted to avail better medical treatment. He further submits, the minor daughter of the Petitioner, who is aged about four years, has been admitted to Sai International School at Bhubaneswar for her education.

5. Learned Senior Advocate further submits that the Petitioner, being a deserted woman, is residing with her aged

and ailing parents and would face considerable hardship if required to travel to Berhampur on each date of hearing to attend the matrimonial proceedings. He also submits, as the Opposite Party-husband is presently residing at Bengaluru, no undue prejudice would be caused to him if the proceedings are transferred from Berhampur to Bhubaneswar, which has convenient air connectivity.

6. Learned Senior Advocate for the Petitioner-wife further submits, in view of the settled position of law, the convenience of the wife is an important consideration while deciding a prayer for transfer of matrimonial proceedings. Accordingly, he prays that both C.P. No.280 of 2021 and C.P. No.305 of 2021 be transferred from the Court of the learned Judge, Family Court, Berhampur, to the Court of the learned Judge, Family Court, Bhubaneswar.

7. Per contra, Mr. Tripathy, learned Senior Advocate for the Opposite Party-husband, submits that both the matrimonial proceedings were instituted in the year 2021, whereas the Petitioner approached this Court seeking transfer of proceedings only in the year 2024, after a delay of

approximately three years. He further submits, although the Petitioner claims to have secured employment at Bhubaneswar, no documentary evidence in support of such employment has been annexed to the transfer petitions. Similarly, no cogent material has been placed on record to substantiate that the minor daughter is pursuing her education at Bhubaneswar.

7.1. Relying upon the principles governing the exercise of transfer jurisdiction, learned Senior Advocate for the Opposite Party-husband further submits, although the convenience of the wife is a paramount consideration in matrimonial matters, it cannot be treated as the sole determining factor in every case.

8. Law is well settled that while considering application for transfer of matrimonial proceedings, convenience of wife must be looked at and matrimonial proceedings may appropriately be brought together so as to avoid conflicting decisions. 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.***
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> *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."***
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> ***(Emphasis supplied)***

8.1. Further in ***Guda Vijayalakshmi v. Guda Ramchandra Sekhara Sastry,*** reported in (1981) 2 SCC 646 : AIR 1981 SC 1143, the Supreme Court held that matrimonial proceedings may appropriately be brought together so as to avoid conflicting decisions and observed, in substance, that it will ordinarily be expedient to have a joint or consolidated hearing/trial of closely connected matrimonial proceedings, including a husband's petition for restitution of

conjugal rights and the wife's petition for judicial separation. The said decision also confirms that Section 21A of the Hindu Marriage Act, 1955 is not to be read as excluding the broader procedural power of transfer/consolidation where justice requires it.

9. Having considered the submissions made by learned Senior Advocate for the parties, the grounds urged in the transfer petitions and the settled position of law, this Court is of the view that the circumstances of the Petitioner-wife justify the transfer of both matrimonial proceedings to Bhubaneswar. The Petitioner is employed at Bhubaneswar, resides with her aged and ailing parents, and has to look after her minor daughter's educational needs. These circumstances, taken together, favour the transfer of the proceedings. Further, as the Opposite Party-husband is presently residing at Bengaluru, the transfer of proceeding to Bhubaneswar would not cause him any undue prejudice. The delay in filing the transfer petitions and the absence of documentary evidence, as pointed out by the learned Sr. Advocate for the Opposite Party-husband, do not override the

grounds justifying transfer in the facts and circumstances of the present cases. Accordingly, the prayer for transfer deserves to be allowed.

10. Accordingly, the learned Judge, Family Court, Berhampur is directed to transmit both the case records, i.e., C.P. No.280 of 2021 and C.P. No.305 of 2021, to the Court of learned Judge, Family Court-I, Bhubaneswar at the earliest, preferably, within a period of seven days from the date of production of certified copy of this Judgment.

11. On receiving the case record in C.P. No.280 of 2021 and C.P. No.305 of 2021 from the Court of learned Judge, Family Court, Berhampur, the Court of learned Judge, Family Court-I, Bhubaneswar shall re-register the said cases, if so required, and proceed further in accordance with law giving due opportunity to both the parties and shall try to conclude the said proceedings at the earliest.

12. Since C.P. No.280 of 2021 has been instituted by the Opposite Party-husband under Section 13(1) of the Hindu Marriage Act, 1955, seeking dissolution of marriage, and C.P. No.305 of 2021 has been instituted by the Petitioner-wife

under Section 9 of the said Act, seeking restitution of conjugal rights, both proceedings shall be tried together so as to avoid multiplicity of proceedings and the possibility of conflicting judgments. For this purpose, the learned Judge, Family Court-1, Bhubaneswar, shall endeavour to record common evidence, wherever permissible in law, so that the parties are not unnecessarily required to repeat the same examination-in-chief and cross-examination in both proceedings. Such evidence shall be read in both proceedings to the extent legally permissible and relevant to the issues arising therein.

13. It is made further clear that, to expedite the trial, both the parties will be at liberty to appear before the Court of learned Judge, Family Court-I, Bhubaneswar 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.

14. The learned Judge, Family Court-I, Bhubaneswar 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".

15. 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 Court of learned Judge, Family Court-I, Bhubaneswar.

16. To avoid delay and notice, both the parties are directed to make a query themselves or through their Counsel from the Court of learned Judge, Family Court-I, Bhubaneswar to ascertain the date and purpose of posting of C.P. No.280 of 2021 and C.P. No.305 of 2021 and participate in the said proceedings.

17. Having regard to the fact that both matrimonial proceedings were instituted in the year 2021, both the parties are further directed not to seek for unnecessary adjournments and cooperate with the learned Judge, Family Court-I, Bhubaneswar, who shall do well to conclude the said

proceedings at the earliest, preferably, by the end of June, 2027, provided there is no legal impediment.

18. With the said observation and direction, both the transfer petitions stand allowed and disposed of.

19. Office is directed to communicate a copy of this Judgment to the Court of learned Judge Family Court-I, Bhubaneswar enabling the said Court to act in terms of the observations made above.

20. Any interim order passed in either of the transfer petitions stands vacated. All pending interlocutory applications, if any, also stand disposed of.

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, the 28th October, 2026/ Prasant

Signature Not Verified
Digitally Signed
Signed by: PRASANT KUMAR PRADHAN
Designation: Secretary
Reason: Authentication
Location: High Court of Orissa, Cuttack
Date: 31-Oct-2026 13:09:28