



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 2544 OF 2025

SAROJ DILIP GANDHI

.....Petitioner

VERSUS

NILESH SUBHASH CHOPDA AND OTHERS

.....Respondents

.....

Advocate for the Petitioner : Mr. Satyajit S. Bora

Advocate for Respondents : Senior Counsel Mr. S. B. Deshpande i/b Mr.
A. D. Ostwal

.....

CORAM : SIDDHESHWAR S. THOMBRE, J.

Date : 5th March, 2026

PER COURT :-

1. Heard the learned counsel for respective sides.
2. The Petitioner is aggrieved by the order dated 16.01.2025 passed by the learned Civil Judge, Senior Division, Newasa, below Exhibit 216 in Special Civil Suit No. 70 of 2014 (old Special Civil Suit No. 144 of 2012). By the impugned order, the Trial Court rejected the Petitioner's application seeking a de-novo trial following the transfer of the suit.
3. Mr. Bora, learned counsel for the Petitioner, submits that

the suit was originally instituted as Special Civil Suit No. 144 of 2012 before the Civil Judge, Senior Division, Ahmednagar. Subsequently, by an administrative order dated 19.03.2024, the Principal District and Sessions Judge, Ahmednagar, transferred the proceedings to the Civil Judge, Senior Division, Newasa. This transfer was necessitated by a notification dated 10.02.2010, which redefined the local jurisdiction of the Newasa Court to include the area where the suit properties are situated.

4. Upon the transfer of the record to the Newasa Court, the Petitioner filed an application (Exh. 216) contending that since the presiding officer and the forum had changed due to a jurisdictional notification, a de-novo trial was necessary. The Petitioner argued that the evidence previously recorded should not be acted upon by the transferee court and that the trial should commence afresh to ensure a fair adjudication under the newly defined jurisdiction.

5. The learned counsel contends that the Trial Court failed to appreciate that a change in territorial jurisdiction via a notification often warrants a fresh look at the evidence. He submits that the rejection of the application for a de-novo trial is legally flawed and

seeks the quashing of the impugned order to prevent procedural prejudice. In support of his contentions, the learned counsel for petitioner relied upon following judgments :-

- (i) **EXL Careers and Anr. Vs. Frankfinn Aviation Services Private Limited [(2020)12 SCC 667]**
- (ii) **Oil and Natural Gas Corporation Limited Vs. Modern Construction and Company [(2014)1 SCC 648]**
- (iii) **Shree Gajanan Sahakari Sakhar Karkhana Ltd. And Ors. Vs. Yashshree Engineering Works and Ors. [2017(4) Mh. L. J. 517].**
- (iv) **Harshad Chiman Lal Modi Vs. D.L.F. Universal Limited (AIR 2006 SC 646).**

6. Mr. Bora, learned counsel for the Petitioner, contends that the present case is governed by the principles of Order VII Rule 10 of the Code of Civil Procedure. He submits that since the suit was transferred specifically because the original Court lacked territorial jurisdiction, it amounts to a return of the plaint for presentation before the proper Court. He argues that under such circumstances, the Trial Court is mandated to conduct a de-novo trial.

7. Per contra, Mr. Deshpande, learned Senior Counsel

appearing for the Respondents, submits that the Petitioner's reliance on Order VII Rule 10 is misplaced. He points out that the proceedings were not returned by way of an application filed by original defendants for presentation to the competent Court; rather, they were withdrawn and transferred by the Principal District and Sessions Judge, Ahmednagar, vide an administrative order dated 10.02.2010. He contends that such a transfer falls under the ambit of Section 24 of the CPC, which empowers the District Court to transfer suits to any competent Court.

8. Having heard the learned counsel for both sides and perused the material on record, the core issue is whether the transfer of proceedings from Ahmednagar to Newasa constitutes a "Return of Plaint" under Order VII Rule 10 or a "Transfer of Suit" under Section 24 of the CPC. A perusal of the administrative order dated 19.03.2024 reveals that the Principal District and Sessions Judge, Ahmednagar, specifically withdrew and transferred the suit to the Court of the Civil Judge, Senior Division, Newasa.

9. The Hon'ble Apex Court in the case of EXL Careers (supra), held in paragraph No. 21 as under :-

"21. The statutory scheme now becomes clear. In

cases dealing with transfer of proceedings from a Court having jurisdiction to another Court, the discretion vested in the Court by [Sections 24\(2\)](#) and [25\(3\)](#) either to retry the proceedings or proceed from the point at which such proceeding was transferred or withdrawn, is in marked contrast to the scheme under Order VII Rule 10 read with Rule 10-A where no such discretion is given and the proceeding has to commence de novo.”

10. Considering the law laid down by the Hon’ble Apex Court in **EXL Careers** (supra), it is evident that this is not a case where the plaint was returned for presentation before a proper Court due to an inherent lack of jurisdiction. Rather, it is a transfer of proceedings by a competent superior Court exercising its discretionary powers under Section 24 of the CPC.

11. The contention of Mr. Bora, learned counsel for the Petitioner, that a de-novo trial is mandatory cannot be accepted. Under Section 24 of the CPC, the transferee Court has the discretion to either retry the suit or proceed from the point at which it was transferred. In the present case, the evidence already recorded remains part of the judicial record. Since the suit was not "returned" but "transferred" via an administrative order to a Court of concurrent jurisdiction, the Petitioner cannot claim a vested right to a de-novo trial.

12. In view of the above, this Court finds no error or perversity in the order passed by the learned Trial Court rejecting the application for a de-novo trial. Consequently, there is no reason to interfere with the impugned order.

13. Accordingly, the Writ Petition is devoid of merit and is hereby dismissed. No order as to costs.

14. Pending civil applications, if any, also stand disposed of.

(SIDDHESHWAR S. THOMBRE, J.)

Omkar Joshi