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IN THE HIGH COURT OF ORISSA, CUTTACK

TRP(C) No.58 of 2025

CNR No.ODHC010136772025

Sriya Swati Sucharita Swain Petitioner

-Versus-

Truptimanas Kap Opposite Party

TRP(C) No.73 of 2025

CNR No.ODHC010167542025

Sriya Swati Sucharita Swain Petitioner

-Versus-

Truptimanas Kap Opposite Party

Advocate for the parties

***For Petitioner : Mr. Satya Ranjan Pati,
Advocate
(in both the transfer petitions)***

***For Opposite Party : Mr. S. Sourav,
Advocate
(in both the transfer petitions)***

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CORAM: JUSTICE SANJAY KUMAR MISHRA

Date of Hearing: 03.09.2026 : Date of Judgment: 18.09.2026



S.K. MISHRA, J.

1. TRP(C) No. 58 of 2025 has been preferred by the Petitioner-wife under Section 24 of the C.P.C. for transfer of proceeding in C.P. No. 262 of 2022, preferred by the present Opposite Party-husband under Section 27(1) of the Special Marriage Act, 1954 for dissolution of marriage, pending before the Family Court, Puri to the Court of the Family Court, Cuttack on the self-same grounds as taken in TRP(C) No.58 of 2025.

2. TRP(C) No. 73 of 2025 has also been preferred by the Petitioner-wife for transfer of proceeding in C.P. No. 318 of 2023, preferred by the Opposite Party-husband under Sections 24 and 25 of the Hindu Marriage Act, 1955 for maintenance, pending before the learned Judge, Family Court, Puri, to the Court of learned Judge, Family Court, Cuttack on the grounds detailed in the said transfer petition.

3. Both the transfer petitions, having been preferred by the Petitioner-wife for transfer of proceedings from the Court of learned Judge, Family Court, Puri to the Court of learned Judge, Family Court, Cuttack on the selfsame ground, in which the Opposite Party-husband has also filed his Objections on almost identical grounds, are taken up together for hearing and disposal by this common judgment.



4. Reiterating the grounds urged in both the transfer petitions, learned counsel for the Petitioner submitted that the Petitioner is a young practising lawyer of this Court. After her desertion since October, 2021 from the residence of the Opposite Party-husband at Bomikhal, Bhubaneswar, she has shifted to Cuttack and continued her practice in Cuttack, which has not been disputed by the Opposite Party in his Objection. That apart, for her maintenance, she has preferred an application under Section 125 of Cr.P.C. before the learned Judge, Family Court, Cuttack, which has been registered as CRP No.88 of 2023. Upon being noticed, the Opposite Party-husband appeared in the said CRP and participating in the said proceeding, which has also not been disputed by the Opposite Party-husband in his Objection. That apart, in the said CRP, no maintenance has been awarded till date by the learned Court below. She being a fatherless daughter, leading a miserable life after her desertion and stays in a rented house in Cuttack with her widow mother, and struggling as a young counsel, with an ambition to become a good lawyer.

5. Learned Counsel for the Petitioner further submitted that, though C.P. No. 262 of 2022 was preferred by the Opposite Party-husband before the learned Judge, Family Court, Puri under Section 27(1) of the Special Marriage Act, 1954 for dissolution of



marriage, as the Petitioner-wife could not appear in the said case at Puri, the said proceeding was concluded by an ex parte judgment on 20.12.2022 for judicial separation. Both the Petitioner-wife and the Opposite Party-husband preferred MATA No.78 of 2023, as well as MATA No. 160 of 2023 before this Court challenging the said ex-parte judgment and decree dated 20.12.2022. Both the said Appeals were heard together and disposed of by the Division Bench vide a common judgment dated 27.06.2023, thereby setting aside the ex-parte judgment dated 20.12.2022 passed in C.P. No. 262 of 2022 and directing for fresh adjudication of the said proceeding.

After the matter was remitted to the Family Court, Puri, the Petitioner-wife filed her written statement as well as I.A. No. 51 of 2023, under Section 36 of the Special Marriage Act, 1954, for interim maintenance, which was allowed directing the Opposite Party-husband to pay Rs. 7,000/- (rupees seven thousand) per month to the Petitioner-wife vide order dated 02.03.2024. Instead of complying with the said order, the Opposite Party-husband preferred W.P.(C) No.8410 of 2024 before this Court, challenging the said order of interim maintenance. Ultimately, vide order dated 12.09.2024, this Court disposed of the said writ petition remitting the matter back to the learned Judge, Family Court, Puri for fresh



adjudication of the application of the Petitioner-wife under Section 36 of the Special Marriage Act, 1954 for maintenance, providing opportunity of hearing to the parties and placing on record the materials with regard to respective income of the parties.

The learned Judge, Family Court, Puri reconsidered I.A. No.51 of 2023 and passed an order on 04.01.2025 directing the Opposite Party-husband to pay interim maintenance of Rs. 4,000/- (rupees four thousand) per month and a sum of Rs.20,000/- (rupees twenty thousand) towards litigation expenses to the Opposite Party-wife. But, till date, the Opposite Party-husband has not paid a single penny to the Petitioner-wife towards interim maintenance in terms of the said revised order dated 04.01.2025, thereby compelling the Petitioner to approach this Court for transfer of proceeding in C.P. No. 262 of 2022, so also C.P. No. 318 of 2023, which was subsequently filed by the Opposite Party-husband before the learned Judge, Family Court, Puri, under Sections 24 and 25 of the Hindu Marriage Act, 1955, seeking maintenance from her, which is the subject matter in TRP(C) No. 73 of 2025.

6. Learned Counsel for the Petitioner, disputed the stand of the Opposite Party-husband that he is having financial hardship and has no independent source of income. Relying upon the



documents obtained under R.T.I, annexed to the Additional Affidavit as Annexure-3, he further submitted that since 19.06.2020 the Opposite Party-husband is one of the Directors and Promoter of Clavax Power Private Limited, having paid up capital of Rs. 50,00,000/- and its Registered Office at Plot No.243/2, Jharpada, Laxmisagar, Bhubaneswar. That apart the said Company has availed cash credit facility of Rs.3,00,00,000/- and Rs.10,00,000/- from Bank of Baroda to carry on business.

6.1. He further submitted that, though the Opposite Party-husband is a permanent resident of village-Mutunia, in the district of Puri, at present is residing at Bhubaneswar. Being financially affluent, he would in no way be prejudiced, if both the proceedings are transferred from the Court of learned Judge, Family Court, Puri to the Court of learned Judge, Family Court, Cuttack.

6.2. It was further contended that, the distance from Bhubaneswar to Puri is around 65 Kms, whereas distance from Bhubaneswar to Cuttack is around 25 Kms. The distance from Cuttack to Puri is around 90 Kms, which would cause difficulty to the Petitioner, if she is asked to appear in both the proceedings at Puri. Rather, it would be convenient for the Opposite Party-



husband to attend both the proceedings, if the same are transferred to Cuttack.

6.3. Though it has not been pleaded, learned Counsel for the Petitioner further submitted that the Petitioner, having little income, as a young counsel, with much difficulty, was prosecuting her LLM Course, which got completed recently.

7. Relying on the judgments of the Supreme Court in **Sumita Singh Vs. Kumar Sanjay and another**, reported in AIR 2002 SC 396, in **Tejalben Vrs. Mihirbhai Bharatbhai Kothari**, reported in (2016) 3 SCC 69, in **Vaishali Shridhar Jagtap Vrs. Shridhar Vishwanath Jagtap**, reported in (2016) 14 SCC 356, in **Santhini Vrs. Vijaya Venketesh**, reported in (2018) 1 SCC 1, and in **N.C.V. Aishwarya Vs. A.S. Saravana Karthik Sha**, reported in 2022 SCC OnLine SC 1199, so also judgment of this Court in **Deepika Maharana Vs. Prasanna Maharana**, reported in 2002 (II) OLR 311, learned Counsel for the Petitioner submitted that, the law is well settled that while considering the application for transfer of matrimonial proceedings, convenience of the wife must be taken into consideration.

8. So far as the stand of the Opposite Party-husband that if the Petitioner-wife has any difficulty, she may appear through virtual mode, learned Counsel for the Petitioner-wife, relying on



the judgment of the Supreme Court in **Santhini** (supra), more particularly, paragraph Nos.56, 57 and 58 of the said judgment, further submitted that in view of the said decision of the Supreme Court, no direction can be issued to permit the parties to appear though videoconferencing. Such discretion rests with the Family Court to be exercised after the Court arrives at a definite conclusion that the settlement is not possible and both parties file a joint application or each party filing his/her consent memorandum seeking hearing by videoconferencing. Hence, such a stand to oppose the prayer of the Petitioner-wife for transfer of both the proceedings from Puri to Cuttack is unsustainable.

9. Per contra, learned Counsel for the Opposite Party-husband, opposed the prayer for transfer of proceeding in C.P. No. 262 of 2022. Such opposition was basically on the grounds that, in view of the common judgment passed by the Division Bench vide order dated 27.06.2023 in MATA No.78 of 2023 and MATA No.160 of 2023, since, while disposing of the MATAs, a direction was given to the learned Judge, Family Court, Puri to dispose of the proceeding within a period of four months from the date of communication of the said order, only the learned Judge, Family Court, Puri is competent to hear C.P. No. 262 of 2022. Prayer for transfer also was opposed on the ground that, though there is a



mention in the transfer petition regarding MATA No.78 of 2023 and MATA No.160 of 2023 and disposal of those Appeals, intentionally the Petitioner did not disclose in the transfer petition that there was a direction to the learned Judge, Family Court, Puri for disposal of the said proceeding within a stipulated period.

9.1. Further, it was contended that, hearing in C.P. No. 262 of 2022 has substantially progressed before preferring the TRP(C) No.58 of 2025. Hence, at this stage, such a prayer for transfer of proceeding from Puri, to Cuttack, if allowed, will delay the trial of C.P. No. 262 of 2022.

9.2. It was also argued that the Opposite Party -husband is having financial hardship and has no independent source of income. The consequences of transfer of proceedings from Puri to Cuttack would cause him further financial and practical hardship. It was further argued that if the Petitioner-wife has any difficulty to appear physically in both the said proceedings at Puri on each date, she may pray for permission to appear through virtual mode at appropriate stage.

10. So far as transfer of proceeding in C.P. No. 318 of 2023, learned Counsel for the Opposite Party-husband opposed to such prayer on the ground that, the Petitioner-wife, who is the Opposite Party in C.P. No. 318 of 2023, filed an application under Order-VII



Rule 11 CPC for rejection of the said application, which was dismissed vide order dated 28.06.2024. Being aggrieved, the Petitioner preferred W.P.(C) No.23784 of 2024. This Court, while issuing notice in the said writ petition, did not stay further proceeding in C.P. No. 318 of 2023, pending before the learned Judge, Family Court, Puri. In the circumstances, the subsequent prayer for transfer of the very same proceeding deserves to be rejected, considering the background of the entire course of litigation between the parties.

10.1. Learned Counsel for the Opposite Party-husband further contended that his client has no intention of causing any inconvenience to the Petitioner-wife and is only seeking adjudication of both the proceedings already instituted before the learned Judge, Family Court, Puri. At the same time, the repeated interruption of the said proceedings would cause further delay in resolution of the matrimonial disputes between the parties. To substantiate his argument, learned Counsel for the Opposite Party-husband relied on the judgment of the High Court of Madhya Pradesh in ***Ekta Vaish Vrs. Deepak Kuchbandiya***, reported in *2026 SCC OnLine MP 1352*, and a website copy of the order dated 22.01.2021 passed by the Supreme Court in *Review Petition (C) No.472 of 2018*, arising out of *Transfer Petition (C)*



No.1252 of 2016 (**Anjali Brahmawar Chauhan Vs. Navin Chauhan**) in support of his argument regarding permission to appear through virtual mode.

11. So far as submission of the learned Counsel for the Opposite Party-husband that, in view of the common judgment dated 27.06.2023 passed in MATA No.78 of 2023 and MATA No.160 of 2023, no direction can be issued to transfer the proceeding to Cuttack, learned Counsel for the Petitioner-wife submitted that, vide the said common judgment, to avoid delay, the Division Bench directed the parties to appear before the learned Judge, Family Court, Puri on 17.07.2023, with an observation that, if possible, the proceeding be disposed of within a period of four months from the date of communication of the said judgment. Both the parties appeared before the learned Judge, Family Court, Puri on 17.07.2023. However, because of the non-appearance of the present Opposite Party-husband, who is the Petitioner in the C.P. No. 262 of 2022, the same was dismissed for non-prosecution on 12.09.2023. Thereafter, the Opposite Party-husband filed CMA No.55 of 2023 under Order IX Rule 13 CPC for setting aside the said order dated 12.09.2023, which was allowed vide order dated 05.10.2023. Thereafter, for reasons attributed to



the Opposite Party-husband, the proceeding could not be concluded.

11.1. Learned Counsel for the Petitioner contended that, since C.P. No. 262 of 2022 was dismissed for non-prosecution on 12.09.2023, which is well within the stipulated period, as observed by the Division Bench, the said direction to the learned Judge, Family Court, Puri lost its force after disposal of the said case on 12.09.2023, even though C.P. No. 262 of 2022 was restored to its original file vide order dated 05.10.2023 passed in CMA No.55 of 2023. Learned Counsel for the Petitioner further submitted that, in between more than three years have elapsed after disposal of matrimonial appeals by this Court. Under such changed circumstances, there cannot be, and should not be, any bar to transfer the proceeding in C.P. No. 262 of 2022 from Family Court, Puri to Family Court, Cuttack. That apart, the allegation of suppression of fact is incorrect.

11.2. Learned Counsel for the Petitioner contended that, though C.P. No. 262 of 2022 was preferred under Section 27 of the Special Marriage Act, 1954 for grant of divorce, but C.P. No. 318 of 2023 was preferred subsequently by the Opposite Party-husband under Section 24, r/w Section 25 of the Hindu Marriage Act, 1955 claiming Rs.3,00,000/- (rupees three lakh) per month towards



maintenance from the Petitioner-wife to harass her. Hence, rightly she moved application under Order 7 Rule 11 CPC for rejection of the plaint in C.P. No. 318 of 2023.

11.3. Learned Counsel for the Petitioner further submitted that the Petitioner-wife's application for stay of proceeding in C.P. No. 318 of 2023 is still pending consideration. As further proceeding in C.P. No. 318 of 2023 has not been stayed by this Court in W.P.(C) No.23784 of 2024, there would be no bar for this Court to pass an order for transfer of said proceeding from the Court of learned Judge, Family Court, Puri to the Court of learned Judge, Family Court, Cuttack before disposal of W.P.(C) No.23784 of 2024. That apart, since the Opposite Party-husband is the Director of a Private Limited Company, and presently stationed at Bhubaneswar, if he has any difficulty to appear physically before the learned Judge, Family Court, Cuttack, he may seek leave of the learned Court below for his appearance through virtual mode at the appropriate stage. The Petitioner has no objection to such mode of appearance, provided the learned Court below allows such prayer.

12. In **N.C.V. Aishwarya** (supra), 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.**”*

(Emphasis supplied)

13. So far as trial through video conferencing in matrimonial disputes, the Supreme Court in **Santhini** (supra), held as follows:

“58. In view of the aforesaid analysis, we sum up our conclusion as follows:

***58.1.** In view of the scheme of the 1984 Act and in particular Section 11, the hearing of matrimonial disputes may have to be conducted in camera.*

58.2. After the settlement fails and when a joint application is filed or both the parties file



their respective consent memorandum for hearing of the case through videoconferencing before the Family Court concerned, it may exercise the discretion to allow the said prayer.

58.3. After the settlement fails, if the Family Court feels it appropriate having regard to the facts and circumstances of the case that videoconferencing will subserve the cause of justice, it may so direct.

58.4. In a transfer petition, videoconferencing cannot be directed.

58.5. Our directions shall apply prospectively.

58.6. The decision in Krishna Veni Nagam is overrules to the aforesaid extent.”

(Emphasis supplied)

14. So far as other case laws cited by the learned Counsel for the Petitioner-wife, are also in terms of the judgment of the Supreme Court in **N.C.V. Aishwarya** (supra). Hence, are not dealt with in details for the sake of brevity.

15. So far as the judgment relied upon by the learned Counsel for the Opposite Party-husband in **Ekta Vaish** (supra), the High Court of Madhya Pradesh held that convenience of wife is not the paramount consideration for deciding the transfer applications and alternatives to transfer proceedings have been provided, viz. through videoconferencing. If the matter is to be proved by the witnesses of the place where the matter is being



prosecuted, then the other side can suitably be adjusted by making payment of commute.

16. So far as order dated 22.01.2021 passed by the Supreme Court in **Anjali Brahmawar Chauhan** (supra), though the Supreme Court referred to **Santhini** (supra), but allowed the parties to appear through video conferencing with following observation;

*“3. Notice was issued in the Review Petition on 20.03.2018. Due to the ongoing pandemic, physical functioning of the Courts has been stopped since March, 2020. Proceedings in all Courts are being conducted only through video conferencing. **In the normal course we would not have directed video conferencing in respect of matrimonial matters as per the judgment of this Court mentioned above.** However, in the present situation where all proceedings are conducted through video conferencing, we direct the Family Court, District Gautambudh Nagar, U.P. to conduct the trial through video conferencing.*

(Emphasis supplied)

17. In the circumstances, after taking note of the pleadings on record, submissions made by the learned Counsel for the parties and the case laws cited by the learned Counsel for the parties, the question for consideration is whether, notwithstanding the earlier direction for expeditious disposal and the stage reached



in C.P. No.262 of 2022, the overall circumstances justify exercise of the power of transfer in the interest of justice.

18. Section 24 CPC confers a discretionary power of transfer to be exercised where the ends of justice so require. In matrimonial proceedings, the convenience of the parties, particularly the practical circumstances in which the wife is required to prosecute or defend the proceedings, is an important consideration. At the same time, the Court must examine the circumstances of both parties and the stage of the litigation rather than apply any inflexible rule.

19. In the present case, the Petitioner-wife is residing and practising at Cuttack. The Opposite Party-husband is stated to be residing at Bhubaneswar and to be a Director of a private limited company. Cuttack is substantially nearer to Bhubaneswar than Puri. The Opposite Party is also already contesting the proceeding pending before the Family Court, Cuttack in CRP No.88 of 2023. These circumstances materially reduce the prejudice, if any, that may be caused to the Opposite Party-husband by transfer.

20. The stage of C.P. No.262 of 2022 has also been considered. It is true that P.W.1 has been examined in chief and cross-examined in part. That circumstance weighs against transfer. However, the proceeding was dismissed for non-



prosecution after the earlier remand and was thereafter restored. The original direction for early disposal has also not resulted in conclusion of the proceeding within the contemplated period. The case has consequently continued for a substantial period. The question is therefore not merely the stage of the proceeding, but whether, on the present facts, continuation of proceedings at Puri would impose disproportionate hardship on the Petitioner when the matrimonial dispute as to maintenance is already being litigated at Cuttack.

21. This Court is also conscious that transfer should not become an instrument for delaying a matrimonial proceeding. The record, however, does not justify a conclusion that the present transfer petitions have been filed merely to protract the litigation. On the contrary, both connected proceedings are sought to be brought before the Family Court at Cuttack, where one of the matrimonial proceedings involving the parties is already pending.

22. This Court is of the view that, the pendency of W.P.(C) No.23784 of 2024 also does not, in the absence of a subsisting order prohibiting further proceedings, by itself deprive this Court of its power to transfer C.P. No.318 of 2023. The transferee Court shall, however, remain bound by every subsisting order passed by this Court in the said writ petition.



23. On an overall assessment of the comparative convenience of the parties, the place of residence and professional circumstances of the Petitioner-wife, the location of the Opposite Party-husband, the connected proceeding already pending at Cuttack, and the need to avoid unnecessary hardship and multiplicity of appearances, this Court is satisfied that the ends of justice would be best served by transferring both proceedings to the Family Court, Cuttack.

24. Accordingly, TRP(C) No.58 of 2025 and TRP(C) No.73 of 2025 are allowed.

25. The learned Judge, Family Court, Puri shall transmit the records of C.P. No.262 of 2022 and C.P. No.318 of 2023 to the learned Judge, Family Court, Cuttack at the earliest, preferably within one week from production of a certified copy of this judgment.

26. Upon receipt of the records, the learned Judge, Family Court, Cuttack shall re-register both the proceedings, if required, and proceed in accordance with law after giving due opportunity to both parties. The evidence already recorded in C.P. No.262 of 2022 shall be dealt with in accordance with law, and the trial shall not be reopened or recommenced mechanically merely by reason of transfer.



27. In C.P. No.318 of 2023, the parties shall place before the learned Judge, Family Court, Cuttack the orders passed in W.P.(C) No.23784 of 2024 and any subsequent orders affecting the proceeding. The transferee Court shall proceed subject to such subsisting orders.

28. So far as C.P. No.262 of 2022 is concerned, if any interlocutory application requiring adjudication is pending, the learned Court below shall consider and dispose of the same in accordance with law, without permitting such applications to be used for unnecessary delay.

29. The learned Judge, Family Court, Cuttack shall make all reasonable endeavours to conclude C.P. No.262 of 2022 expeditiously, preferably by the end of March, 2027, subject to the cooperation of both parties and subject to the pendency of any proceeding or order of this Court which may affect the trial.

30. As regards appearance through videoconferencing, the transferee Court may consider any request made by either party in accordance with the applicable High Court Video Conferencing Rules, 2020 and the nature and stage of the particular proceeding. Such consideration shall remain within the discretion of the Family Court and shall not prejudice the requirement of physical presence, where the Court considers such presence necessary,



particularly, for effective examination or cross-examination of witnesses.

31. The parties shall not seek unnecessary adjournments and shall cooperate with the learned Judge, Family Court, Cuttack for expeditious disposal of the proceedings.

32. The transfer petitions are accordingly allowed and disposed of. Office shall communicate a copy of this judgment to the learned Judge, Family Court, Puri and the learned Judge, Family Court, Cuttack for necessary compliance.

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, 18th September, 2026/ Kanhu*

Signature Not Verified

Digitally Signed
Signed by: KANHU BEHERA
Designation: JUNIOR STENOGRAPHER
Reason: Authentication
Location: High Court of Orissa, Cuttack.
Date: 18-Sep-2026 17:39:01

