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MCC-2556-2025

IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE MANINDER S. BHATTI

ON THE 4th OF MAY, 2026MISC. CIVIL CASE No. 2556 of 2025*MEENAL BUDHOLIA @ MEENAL REHMAN**Versus**KALYAN SINGH BUDOLIA AND OTHERS*

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Appearance:

Shri Ram Prasad Khare, Advocate for the applicant.

Shri Sandeep Kachhi, Advocate for respondents No.1 and 2.

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ORDER

The present application has been preferred under Section 22 of the Code of Civil Procedure seeking transfer of Case No. RCSA/0000025/2025 (*Kalyan Singh Budhauriya vs. Meenal Budhauriya*), which is presently pending before the Court of 8th Civil Judge, Junior Division, Gadarwara, District Narsinghpur, to a court of competent jurisdiction at Jabalpur.

2. The counsel for the applicant contends that respondents No.1 and 2/plaintiffs have instituted a civil suit before the Court of 2nd Civil Judge, Class-II, Gadarwara, District Narsinghpur, seeking reliefs of declaration as well as permanent injunction. The said suit has been filed by respondents No.1 and 2 in respect of the properties detailed in paragraph 2 of the plaint. It is further contended that the relief has been claimed on the basis that the plaintiffs have acquired title over the property in question by virtue of a Will dated 07-09-2021.



3. The counsel for the applicant contends that the respondents/plaintiffs, with an intent to mislead the trial Court, have projected themselves as residents of Village Kaudiya, Tehsil-Gadarwara, District Narsinghpur. It is submitted that several documents have been placed on record along with the present application to demonstrate that the respondents are, in fact, residents of Jabalpur. It is further contended that the Will, on the basis of which the suit in question has been instituted, contains a specific recital indicating that the plaintiffs are residents of South Civil Lines, Jabalpur.

4. The counsel further submits that the respondents/plaintiffs had approached the Revenue authorities by portraying themselves as residents of Jabalpur. It is also contended that, at the appellate stage, the present applicant had impleaded the respondents as parties by mentioning their address at Jabalpur, and the respondents appeared in the said proceedings without raising any objection with regard to their place of residence being shown as Jabalpur.

5. It is additionally submitted that the properties described in paragraph 2 of the plaint are situated at Jabalpur as well as Narsinghpur. Further, the address of the plaintiffs as mentioned in the plaint does not disclose the existence of any proper residential house, and a Kachha house stated to be situated at the said address of Village, Kaudiya District Narsinghpur, is in a dilapidated condition.

6. *Per contra*, the counsel for respondents No.1 and 2 submits that the present application is liable to be dismissed. It is contended that the



application has been filed with an intention to mislead this Court. It is further submitted that the present applicant is employed at Jaipur and is not residing at Jabalpur. The counsel further contends that a substantial portion of the disputed property is situated in Village Kaudiya, Tehsil-Gadarwara, District Narsinghpur. It is also submitted that the suit in question is founded upon the Will dated 07-09-2021.

7. The counsel for the respondents contends that, along with the reply, the Aadhaar Cards of respondents No.1 and 2 as well as their minor sons have been placed on record. As per the said Aadhaar Cards, it is clearly reflected that they are residents of Village Kaudiya, Tehsil-Gadarwara, District Narsinghpur. It is further submitted that since the major portion of the suit property is situated within the territorial jurisdiction of Gadarwara, the suit has been rightly instituted before the competent Court at Gadarwara, District Narsinghpur. Accordingly, it is contended that the present application deserves to be dismissed.

8. Having considered the submissions advanced by the counsel for the parties, and upon perusal of the record, it is apparent that the present application has been filed by the applicant under Section 22 of the Code of Civil Procedure. The provisions of Section 22 of the CPC are reproduced hereunder:

"22. Power to transfer suits which may be instituted in more than one Court. -Where a suit may be instituted in any one of two or more Courts and is instituted in one of such Courts, any defendant, after notice to the other parties, may, at the earliest possible opportunity and in all cases where issues are settled at or before such settlement, apply to have the suit transferred to another Court, and the Court to which such application is made,



after considering the objections of the other parties (if any), shall determine in which of the several Courts having jurisdiction the suit shall proceed."

A perusal of the aforesaid provision clearly indicates that there exists a mechanism for transfer of a suit in cases where the suit property falls within the jurisdiction of more than one Court. As per the said provision, a suit may be instituted in any one of such competent Courts, and where it is so instituted, any defendant, after issuing notice to the other parties, may, at the earliest possible opportunity, and in all cases where issues are settled at or before such settlement, seek transfer of the suit to any other competent Court. Thereupon, the Court to which such an application is made shall, after considering the objections of the other parties, determine as to which of the Courts having jurisdiction, shall proceed with the suit.

9. During the course of hearing, the counsel for the applicant submits that though the present application for transfer has been moved under Section 22 of the CPC, the power to effect such transfer is exercised by this Court under Section 24 of the CPC. However, the counsel does not dispute that the application filed by the applicant has not been styled as one under Section 24 of the CPC.

10. A conjoint reading of Sections 22 and 24 of the CPC indicates that where a suit is capable of being instituted in more than one Court having jurisdiction in different districts, an application for transfer is required to be made before the higher Court. In the present case, the question as to whether an application under Section 22 of the CPC is maintainable or not, itself, is an issue which, in the opinion of this Court, requires consideration.



11. A bare reading of Section 22 of the CPC reflects that for invoking the said provision, a defendant seeking transfer of a civil suit to any other Court is required, in the first instance, to issue notice to the other parties, and only thereafter can he/she prefer an application before the competent Court for transfer of the suit. Therefore, though a ground for transfer is contemplated under Section 22 of the CPC, but the same can only be taken recourse to, when the stipulations made therein are fulfilled.

12. A perusal of the application filed before this Court under Section 22 of the CPC does not reflect that any notice of transfer was issued by the present applicant to the other parties, as mandated under Section 22 of the CPC. Issuance of such notice to the other parties is a condition precedent for invoking the provisions of Section 22 of the CPC. As per the said provision, its invocation is contingent upon prior notice being given to the opposite parties by the defendant seeking transfer of the suit.

13. In the present case, the suit in question has been instituted by the respondents against the present applicant, who is arrayed as a defendant before the trial Court. If the application, styled as one under Section 22 of the CPC, was to be filed, it was incumbent upon the present applicant, as a statutory obligation, to first issue notice to the opposite party, i.e., the plaintiffs. However, in the instant case, without issuing any such notice to the other party, the present application under Section 22 of the CPC has been directly filed.

14. Thus, in the absence of issuance of any notice to the opposite party by the present applicant, this Court is of the considered view that the present



application is not maintainable.

15. Accordingly, the instant petition is hereby dismissed, being not maintainable, without any order as to costs.

(MANINDER S. BHATTI)
JUDGE

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