

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD****R/MISC. CIVIL APPLICATION (FOR TRANSFER) NO. 1136 of 2026****FOR APPROVAL AND SIGNATURE:****HONOURABLE MR. JUSTICE MAULIK J.SHELAT**

|                        |     |    |
|------------------------|-----|----|
| Approved for Reporting | Yes | No |
|                        |     | ✓  |

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**Versus**

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Appearance:

MS DHRUMA U VYAS(6850) for the Applicant(s) No. 1

HCLS COMMITTEE(4998) for the Opponent(s) No. 1

MR YOGIN A BHAMBHANI(6444) for the Opponent(s) No. 1

**CORAM:HONOURABLE MR. JUSTICE MAULIK J.SHELAT**

**Date : 25/09/2026**  
**JUDGMENT**

1. Rule returnable forthwith. Mr.Yogin Bhambhani, learned advocate waives service of rule for the opponent.
2. This application under Section 24 of Civil Procedure Code, 1908 (CPC) is filed by the applicant seeking transfer of Family Suit No.4 of 2026 pending before the Family Court at Morbi to the concerned Court at Bhachau.
3. Heard Ms.Dhruma Vyas, learned advocate for the applicant and Mr.Bhambhani, learned advocate for the opponent.
4. Ms.Vyas, learned advocate, would submit that the applicant happens to be the wife of the opponent who is

residing at Rapar, District Kutch, whereas the opponent husband has filed the Family Suit at Family Court, Morbi, which is far away from her residence. It is submitted that the distance between Rapar and Morbi is around 100 Kilometres one way and the applicant is also required to look after her minor girl child.

4.1 It is further submitted that the maintenance proceedings were instituted by the applicant under Section 144 of the BNSS, wherein the order of maintenance was passed by the Family Court concerned, but despite such order passed, the opponent was not paying maintenance and for such reason, he was ordered to be behind the bars.

4.2 It is also submitted that it causes great inconvenience and hardship to the applicant to attend the proceedings instituted by the opponent at Morbi.

4.3 By making the above submissions, Ms.Vyas, advocate for the applicant, would request this Court to allow this application.

5. *Per contra*, Mr.Bhambhani, learned advocate for the opponent, has vehemently opposed this application, by placing reliance upon the reply filed by the opponent in this matter. It is submitted that no hardship and inconvenience would be caused to the applicant to attend the proceedings instituted by the opponent.

5.1 It is further submitted that due to the poor financial condition of the opponent, he was unable to pay the

maintenance ordered by the competent Court; otherwise, he has no ill intention not to maintain the applicant and his daughter. It is also submitted that the applicant can very well attend the suit proceedings through video conferencing and this Court may not exercise its powers under Section 24 of the CPC.

5.2 By making the above submissions, Mr.Bhambhani, learned advocate would request this Court to dismiss this application.

6. At this stage, it would be fruitful to refer to the ratio laid down by the Hon'ble Supreme Court in the cases of :- **(i) Smita Singh Versus Kumar Sanjay - AIR 2002 SC 396, (ii) N.C.V. Aishwarya versus A.S. Saravana Karthik Sha - 2022 SCC OnLine SC 1199 : 2022 LiveLaw (SC) 627 and (iii) Ruchi Majoo v. Sanjeev Majoo, (2011) 6 SCC 479.**

7. Having heard learned advocate for the respective parties and upon perusal of the pleadings and documents annexed therewith, it appears that the applicant, being the wife of the opponent, is residing at her parental home at Rapar, Kutch which is around 100 Kilometres away Morbi where the opponent has instituted the family suit. Apart from the aforesaid fact, the applicant is also required to look after the welfare of her minor girl child who is residing with her.

8. It has also come on record that despite the order of maintenance passed by the Family Court concerned, the

opponent failed to pay the maintenance for which he was subjected to imprisonment and after clearing the dues, he has recently come out from jail. *Prima facie*, this Court has reason to believe that the opponent is not in a position to pay regular maintenance to maintain the applicant and his minor girl child. Thus, considering overall facts and circumstances of the case as also keeping in mind the inconvenience that may cause to the applicant *vis-à-vis* the respondent which is much higher, this Court is inclined to exercise discretion in favour of the applicant.

9. In the backdrop as aforesaid, present application succeeds and is allowed accordingly. The Family Suit No.4 of 2026 pending before the Family Court at Morbi is directed to be transferred to the concerned Court at Bhachau, Kutch.

10. After the transfer of the above proceedings, it is requested to concerned Court at Bhachau to see that transferred family suit filed by opponent and the maintenance proceedings filed by applicant is pending before it be heard by same court. It will be open for the opponent to request the concerned Court at Bhachau to give common date in the proceedings which is ordered to be transferred and the said maintenance proceedings pending before the concerned Court at Bhachau. If such a request will be made, the same may be considered sympathetically by the concerned Court.

11. It is also open for the opponent to request the concerned Court to join the proceedings through video conferencing /

online mode and if such a request is made by the opponent, the Court concerned may also consider the same unless the physical presence of the opponent is required to attend the proceedings at a particular stage of proceedings.

12. In view of the above, the present application is allowed in terms of para 7(B). Rule is made absolute, accordingly.

GAURAV J THAKER

**(MAULIK J. SHELAT, J)**