

**2023 LiveLaw (SC) 579**

**IN THE SUPREME COURT OF INDIA  
CIVIL ORIGINAL JURISDICTION  
C.T. RAVIKUMAR; J., SANJAY KUMAR; J.  
TRANSFER PETITION (CIVIL) NO.973 OF 2023; 27.07.2023  
**POONAM ANKUR PAWAR versus ANKUR ASHOKBHAI PAWAR****

**Code of Civil Procedure, 1908; Order XXI Rule 32 - It cannot be said that non-participation in a proceeding of a restitution of conjugal rights is absolutely impactless. In fact, it has civil consequences - Transfer petition filed by wife allowed.**

*For Petitioner(s) Mr. Rajivkumar, AOR Mr. Anil C Nishani, Adv.*

**ORDER**

This petition is filed under Section 25 of the C.P.C. seeking transfer of the Hindu Marriage Petition No. 01/2023 filed under Section 9 of the Hindu marriage Act for restitution of conjugal rights, titled “Ankur Ashokbhai Pawar vs. Smt. Poonam Ankur Pawar” pending before the Court of Ld. District Judge of Dadra & Nagar haveli at Silvassa to the Court of Ld. Principal Judge, Family Court, Ahmedabad, Gujarat.

Despite service of notice, the sole respondent has chosen not to appear and contest the matter.

Taking note of Order XXI Rule 32 of the Code of Civil Procedure, we are of the view that it cannot be said that nonparticipation in a proceeding of a restitution of conjugal rights, of the party who seeks for transfer of such proceeding is absolutely impactless. In fact, it has civil consequences as is evident from the aforesaid provision. In such circumstances and taking into account the distance of the court where the case sought to be transferred is pending and the place where the petitioner-wife is presently residing, we are inclined to allow the captioned transfer petition.

Consequently, Transfer Petition is allowed. Accordingly, petition for restitution of conjugal rights filed under Section 9 of the Hindu marriage Act, the Hindu Marriage Petition No. 01/2023 titled “Ankur Ashokbhai Pawar vs. Smt. Poonam Ankur Pawar” pending before the Court of Ld. District Judge of Dadra & Nagar Haveli at Silvassa stands transferred to the Court of Ld. Principal Judge, Family Court, Ahmedabad, Gujarat.

The Court of Ld. District Judge of Dadra & Nagar haveli at Silvassa shall transfer the entire record pertaining to the said petition to the transferee court expeditiously.

Pending application(s), if any, shall stand disposed of.