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'HCs don't have power to shift cases'

New Delhi: In a ruling which assumes significance for many couples involved in matrimonial disputes, the Supreme Court has ruled that high courts have no power to transfer civil matters, including marital discord cases, to courts outside a state.

In other words, if in a matrimonial dispute the husband is residing in Madhya Pradesh and the wife in Maharashtra, then neither the high court of Madhya Pradesh, much less the Bombay high court, has the power to transfer the case of the couple from one state to another.

The power to transfer civil proceedings from one state to another is vested only with the Supreme Court and the high courts have no such power, a two-judge bench of Justices C K



The Supreme Court says its ruling will overrule all previous decisions of various high courts wherein the respective HCs had assumed the power to transfer civil proceedings to other states

Thakker and D K Jain has ruled.

The bench said that by this decision it is overruling all previous decisions of various high

courts in the country wherein the respective high courts had assumed the power to transfer civil proceedings to other states.

The apex court passed the ruling while upholding the appeal of Durgesh, a resident of Ujjain, Challenging the Madhya Pradesh high court's order to transfer his matrimonial dispute case to a court in Nashik in Maharashtra on the plea of his wife Jayashree. The wife had pleaded transfer of the case to Nashik in Madhya Pradesh on the ground that as a single woman she cannot travel 400 kms to Ujjain to fight the case filed by her.

The MP high court accepted her plea, applying Section 23 of the Civil Procedure Code (CPC) which authorises a high court to transfer a case from one subor-

dinate court to another court within its own jurisdiction. The apex court said that it was wrong to presume that Section 23 of the CPC is a substantive provision which authorises high courts to transfer civil cases outside a state as held by the high court in various decisions so far. According to the apex court, under the amended (1977) provision of Section 25 of the CPC it is only the Supreme Court which has the power and authority to transfer a case, proceedings or trial from one state to another state. "Even if such power was with a high court earlier, it stood withdrawn with effect from January 1,1977 in view of Section 25 of the code as amended by Code of Civil Procedure (Amendment) Act, 1976," the bench observed, AGENCIES