

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

MISCELLANEOUS CIVIL APPLICATION NO.131 OF 2018

Alka Namit Nichal

...Applicant

vs.

Namit Girish Nichal

...Respondent

Mr. Shailesh Kharat i/b Mr. Atmaram Patade for the Applicant.

Ms. Niraja Patani i/b Mrs. Indrayani Patani for the Respondent.

CORAM : A. M. DHAVAL, J.

DATE : 28th SEPTEMBER, 2018.

P.C.:

. This application is under section 24 of CPC for transfer of divorce petition filed by husband from Family Court, Nashik to the Court, Civil Judge, Senior Division at Palghar. The parties married at Nashik on December 2013. Then there were complaints from the wife which led her to take shelter at her matrimonial house at Palghar in September 2014. The wife filed Domestic Violence proceedings in September 2015 in Palghar Court and proceedings under section 125 of Cr.P.C. in September 2017 at Palghar. The husband is required to attend Palghar Court but he has filed divorce proceedings on 2/11/2017 in the Family Court at Nashik as marriage was solemnized at Nashik. The wife says that her parents are old aged and there is nobody to accompany her. She is not getting maintenance from her husband and it is very difficult for her to attend the Court at Nashik. Hence, she seeks transfer of Divorce Petition to Palghar.

2. The application has been opposed on the ground that the wife is serving and is attending office at Saphale, she could attend the Court at

Nashik if husband is ready to pay her expenses for attending on every day. It is submitted by the learned counsel for the applicant that so far the husband has not paid maintenance.

3. It was suggested to the parties for transfer of matters to Thane as the same would be convenient for all, but the wife is not ready to come to Thane. Learned counsel for the applicant submits that since the husband is already attending the Court at Palghar it would not be inconvenient for him to attend the Court at Palghar and therefore the matters be transferred to the Court at Palghar .

4. Learned advocate for the applicant relied on the judgment in the case of *Vijaya Sachin Anurkar (Gurav) vs. Sachin Vasantrao Anurkar (Gurav)*, 2012(5) Mah. L. J. 721 In this case transfer was sought from Pune to Jalgaon where the wife was residing. Considering the pendency of Domestic Violence Act proceeding prior in point of time at Jalgaon, the application was allowed. Even in *Sumita Singh vs. Kumar Sanjay*, AIR 2002 SC 396 it has been laid down that in case of matrimonial dispute convenience of wife should be looked into.

5. Considering the fact that the wife is having a meager income and not getting maintenance from her husband it will not be fair to direct her to attend the Court at Nashik. Hence order:

ORDER

i) Marriage Petition No.A.P-615/2017 pending in the Family Court, Nashik is hereby transferred to the Court of Civil Judge, Senior Division, Palghar. It is directed that all the three proceedings in Palghar Court shall be kept on the same dates so that the Respondent will be in position to attend all the three proceedings in the Palghar Court;

ii) The parties are directed to remain present in the Palghar Court on 17/10/2018;

iii) The Superintendent, Family Court, Nashik to transmit the record to the Court of Civil Judge, Senior Division, Palghar before that date.

iv) The Application is allowed and disposed of.

(A. M. DHAVALA, J.)