

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
MISC. CIVIL APPLICATION NO.26 OF 2021**

Akanksha Dayanand Bobade .. Applicant

Vs.

Dayanand Vishnu Bobade .. Respondent

...
Mr. Priyal G. Sarda for the applicant.

...

CORAM : SMT. BHARATI DANGRE, J.

DATED : 02ND DECEMBER, 2021.

P.C:-

1. Heard learned counsel for the applicant-wife. The respondent, though served, has chosen not to remain present.
2. On 22/10/2021, I had passed the following order:

“1. The service report being awaited, learned counsel appearing for the Applicant states that he will serve the Respondent by private notice, if the next date of hearing is scheduled.

2. List the application for further hearing on 22/11/2021.

3. The Applicant is permitted to serve the Respondent by private service.”

3. Pursuant to the said order, an affidavit of service has been filed on record by the Clerk of Advocate Priyal Sarda, sworn on 18/11/2021 reflecting that the respondent was intimated about the next date of hearing. Despite the aforesaid, today, the respondent did not put an appearance. This leaves me with no option than to hear learned counsel for the applicant and proceed with his application.

4. The application filed under Section 24 of the CPC seeks transfer of proceedings in the form of HMP No.128 of 2020 filed by the respondent-husband before the Civil Judge, Senior Division, Malshiras under Section 13(1)(ia) of the Hindu Marriage Act seeking divorce. As far as the applicant-wife is concerned, she has also instituted proceedings for maintenance in the Court of Civil Judge, Senior Division, Pune under Sections 18 and 20 of the Hindu Adoption and Maintenance Act.

5. The marriage between the parties were solemnized on 12/01/2015 and, out of the wedlock, there are two children borne and on being estranged with the husband, the wife is residing at

Akurdi, Pune along with her parents and two children, aged 4 years and 1 year respectively.

6. A difficulty is posed by her in attending the proceedings in the Court of Malshiras on account of the distance between Pune and Malshiras, which is approximately 250 kilometers and, with one young toddler and one sucking child, it is difficult for her to under take travel, all the way to Malshiras, on every date of hearing. Further, the financial distress is also pressed into service since she would be required to travel almost 500 kilometers every day and this would consume approximately 10 hours and, at times, warrant a night stay, which would incur expenses.

7. Considering the aforesaid difficulty expressed, I am inclined to exercise the power of transfer of proceedings in the interest of parties, though in the absence of the respondent, who has chosen not to attend the proceedings. For the aforesaid reasons, the miscellaneous civil application is allowed in terms of prayer clause (a), which reads as under:

“a. That the HMP No.128/2020 pending on the file of Hon’ble CJSD, Malshiras filed by the present Respondent be transferred to the Hon’ble Civil Judge, Senior Division at Pune for the hearing / trial.”

8. On the application being allowed, the Civil Judge, Senior

Division, Malshiras, is directed to forthwith transmit the record and proceedings of HMP No.128 of 2020 pending on its file to the Court of Civil Judge, Senior Division, Pune.

9. The miscellaneous civil application is disposed of in the aforestated terms.

[SMT. BHARATI DANGRE, J.]