

R.M. AMBERKAR
(Private Secretary)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

MISC. CIVIL APPLICATION NO. 274 OF 2022

Pranali Kushal Misle nee
Pranali Santosh Shete

.. Applicant

Versus

Kushal Ramesh Misle

.. Respondent

-
- Mr. Anand S. Patil for Applicant
 - Ms. Purva Pradhan i/by Mr. Dinesh Adsule for Respondent
-

CORAM : MILIND N. JADHAV, J.

DATE : DECEMBER 02, 2022

P.C.:

- 1.** Heard.
- 2.** Perused the Application. This is an Application filed under Section 24 of the Code of Civil Procedure, 1908 by the Applicant-wife.
- 3.** Parties got married on 26.05.2019. After marriage, Applicant was subjected to cruelty and harassment at the instance of Respondent-husband. Applicant filed proceedings under the D.V. Act which is pending before Judicial Magistrate First Class, Kolhapur.
- 4.** Respondent – husband initiated proceedings for dissolution of marriage which is pending on the file of Family Court, Pune of which transfer is sought by Applicant to Family Court, Kolhapur, where she resides.
- 5.** Perused grounds of hardship which are pressed in paragraph Nos. 6 & 7 of the Application. As Applicant – wife will be required to

travel from Kolhapur to Pune to attend the proceedings, it will cause prejudice and hardship to her.

6. Respondent has filed affidavit-in-reply dated 24.11.2022 and objected to transfer of proceedings. Respondent submitted that the MCA proceedings is a counterblast to the Divorce proceedings and Applicant has started working in Kolhapur after filing the MCA proceedings.

7. Considered the above submissions advanced on behalf of Applicant as well as Respondent.

8. It is well settled by a catena of judgments of the Supreme Court as well as this Court that the primary concern in such matters is the convenience of the wife.

9. The cardinal principle for exercise of power under Section 24 of CPC is that the ends of justice demand the transfer of the suit, appeal or other proceeding. In matrimonial matters, wherever the Courts are called upon to consider the plea of transfer, the Courts have to take into consideration the economic soundness of either of the parties, the social strata of the spouses and behavioural pattern, their standard of life antecedent to marriage and subsequent thereto and circumstances of either of the parties in eking out their livelihood and under whose protective umbrella they are seeking their sustenance to life. Generally, it is the wife's convenience which must be looked at by the Courts, while deciding a transfer application and merits of the case

need to be considered.

10. In the present case if the Applicant - wife is forced to go from Kolhapur to Pune, it would amount to denial of justice to her. It is settled principal of law that justice is not only to be done but it should also appear to have been done. Hence, to strike a balance between the parties with a view to do complete and substantial justice and proceeding on a holistic view of the matter, I am of the considered view that it would be just and expedient to transfer the proceeding filed by Respondent-Husband from Pune to Kolhapur.

11. Since the contentions are not controverted, in my opinion, ground of hardship has to be considered in favour of the Applicant, as one way distance between Pune and Kolhapur is 250 kilometers.

12. As such, Application is allowed and disposed of in terms of prayer clause (a) which reads as under:-

“(a) That this Hon’ble Court be pleased to pass an order of transferring the Hindu Marriage Petition No. 7/2021 pending on the file of Ld. Family Court at Pune to Ld. Family Court at Kolhapur on such terms and conditions as this Hon’ble Court deems fit and proper.”

[MILIND N. JADHAV, J.]

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by RAVINDRA
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