

H. H. Sawant.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

MISC CIVIL APPLICATION NO.426 OF 2022.

Vrushali Suhas More

.. Applicant.

Versus

Suhas Dattatray More

.. Respondent.

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- Mr. Nikhil N. Pawar, for Applicant.
 - Mr. Ketan Joshi a/w. Mr. Vishwajeet Mohite, Advocates for Respondent.
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CORAM : MILIND N. JADHAV, J.

DATE : DECEMBER 02, 2022

P.C.:

1. Heard Mr. Pawar, learned Advocate appearing for Applicant and Mr. Joshi, learned Advocate appearing for Respondent at length. Perused the Application. This is an Application filed under Section 24 of the Code of Civil Procedure, 1908 by the Applicant – wife..

2. Parties got married on 06.01.2021. Respondent – husband initiated proceedings for dissolution of marriage / divorce pending on the file of Family Court, Pune of which transfer is sought by Applicant to Civil Judge Senior Division, Islampur, District Sangli, where she resides. Applicant's restitution proceedings are pending in Islampur, District Sangli.

3. Perused grounds of hardship which are pressed in paragraph Nos.8/ B to G of the Application. As Applicant – wife will be required to travel from Islampur, District Sangli to Pune to attend the

proceedings, it will cause prejudice and hardship to her.

4. 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.

5. Mr. Joshi, learned Advocate for Respondent has appeared and submitted his objections for grant of transfer of the proceedings from Pune to Islampur, District, Sangli on the ground of inconvenience for himself and his family member. He further submitted that he is ready and willing to pay the costs to the Applicant for each hearing.

6. 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.

7. In the present case if the Applicant - wife is forced to go from Islampur, District, Sangli 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 Islampur, District, Sangli.

8. 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 Islampur, District, Sangli is 250 kilometers.

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

“(a) This Hon’ble Court may be pleased to transfer the Petition bearing A No.1462 of 2022 pending before the Ld. Family Court, Pune to the Court of Civil Judge, Senior Division, Islampur Dist. Sangli.”

[MILIND N. JADHAV, J.]