

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

MISC. CIVIL APPLICATION NO. 41 OF 2023

Ankita Gajanan Atalkar Applicant

Versus

Gajanan S/o Madhavrao Atalkar Respondent

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Mr. D.S. Patil, Advocate h/f Mr. S.S. Gangakhedkar, Advocate
for the Applicant
Mr. P.N. Sonpethkar, , Advocate for Respondent
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[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 12th OCTOBER, 2023

ORDER :

1. This application is filed by the applicant/wife seeking transfer of proceeding i.e. Petition A No. 712 of 2022 filed by respondent/husband, from Family Court, Nashik to Family Court, Nanded.

2. The application is vehemently opposed by learned advocate for respondent contending that, father of applicant is transferred from Nashik to Amravati, and applicant is staying at Amravati, and not at Nanded. Only with a view to harass respondent, present application is filed.

3. Applicant has filed additional affidavit on record, wherein she has stated that, she is appointed as Biology (Jr.) Faculty in Biology Department by Bansal Classes, Nanded on 11/02/2023, and she is staying with her mother at Nanded. Distance between Nashik and Nanded is 465 k.m., and the applicant has two years old daughter.

4. It is well settled principle of law that convenience of the wife needs to be considered while deciding application for transfer of proceeding. In **N.C.V. Aishwarya Vs. A.S. Saravana Karthik Sha**, 2022 SCC OnLine SC 1199, it is held;

"9. The cardinal principle for exercise of power under Section 24 of the Code of Civil Procedure is that the ends of justice should demand the transfer of the suit, appeal or other proceeding. In matrimonial matters, wherever Court are called upon to consider the plea of transfer, the Courts have to take into consideration the economic soundness of both the parties, the social strata of the spouses and their behavioural pattern, their standard of life prior to the marriage and subsequent thereto and the circumstances of both the parties in eking out their livelihood and under whose protective umbrella they are seeking their sustenance to life. Given the prevailing sociology-economic paradigm in the Indian society, generally, it is the wife's convenience which must be looked at while considering transfer."

5. There is merit in the contention of the wife that it would cause inconvenience and hardship to her if she asked to travel such a long distance to attend the proceeding at Family Court, Nashik. In view of above, application deserves to be allowed. Hence, the following order:

ORDER

- I) Civil Miscellaneous Application is allowed.
- II) Petition No. A-712 of 2022, pending in Family Court, Nashik is hereby transferred to the Family Court at Nanded.

[NITIN B. SURYAWANSHI]
JUDGE

S.P. Rane