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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

MISCELLANEOUS CIVIL APPLICATION NO.52 OF 2022

Sonali Sandip Magar and Another

APPLICANTS

VERSUS

Sandip Mohan Magar

RESPONDENT

.....

Mr. M. R. Wagh, Advocate for the applicants

Mr. K. F. Shingare, Advocate for the respondent

.....

[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 14th SEPTEMBER, 2023

ORDER :

1. Learned advocate for the applicants states that the mediation has failed.
2. This application is filed by the applicant/wife seeking transfer of proceeding i.e. Petition No. A-417 of 2020 filed by respondent/husband for divorce, in the Family Court at Aurangabad to the Family Court at Dhule.
3. Heard the learned advocate for the applicants and learned advocate for the respondent. Perused the memo of application, annexures thereto and the reply filed by respondent.
4. It is the contention of the wife that it is very difficult for

her to travel from Shirpur to Aurangabad along with her 1 year old child, to attend the Court proceedings at Aurangabad, which is at a distance of approximately 200 km and she has no separate income and she is dependent on her parents.

5. Learned advocate for the respondent - husband vehemently opposed the prayer contending that the applicant has already appeared in the Family Court at Aurangabad and has engaged an advocate and, therefore, there is no need to transfer the matter. He submits that the respondent is ready to bear the travelling expenses of the applicant.

6. It is well settled principal of law that ordinarily convenience of the wife needs to be considered while deciding application for transfer of proceeding.

7. In ***N.C.V. Aishwarya Vs. A.S. Saravana Karthik Sha, 2022 SCC OnLine SC 1199***, it is held;

“9. The cardinal principal 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."

8. In view of the above observations, it is desirable to transfer proceeding of Petition No. A-417 of 2020 pending in the Family Court at Aurangabad to the Family Court at Dhule. In the result, following order:

ORDER

- A. Civil Miscellaneous Application is allowed.
- B. Petition No. A-417 of 2020 filed by respondent/husband in the Family Court, Aurangabad is hereby transferred to the Family Court at Dhule.

**[NITIN B. SURYAWANSHI]
JUDGE**