

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

MISC. CIVIL APPLICATION NO.72 OF 2023

**ASMITA ISHWAR KADAM
VERSUS
ISHWAR PUNDLIK KADAM**

...
Advocate for Applicant : Mr. Santosh C. Bhosle
Advocate for Respondent : Ms. Tanisha Shirsath (Appointed)

...

CORAM : NITIN B. SURYAWANSHI, J.

DATE : 21st SEPTEMBER, 2023

PER COURT :

1. By this application, applicant wife seeks transfer of Marriage Petition No.B-18/2020 from Family Court, Nashik to the Court of learned Civil Judge Junior Division, Georai, District Beed.
2. Heard learned advocate for applicant and learned advocate for respondent. Perused the memo of application and annexures thereto.
3. It is the case of applicant wife that she is residing at her maternal house at Georai. She is not in a position to bear traveling expenses. She has filed proceedings under Protection of Women from Domestic Violence Act, bearing Misc. Criminal Case No.03/2021, in the Court of Judicial Magistrate First Class, Georai, which responded husband is attending. Distance from Georai to Nashik is of 300 Kms and it is very inconvenient for her to travel

such a long distance. She has therefore, prayed for transfer of marriage petition.

4. Learned advocate appointed to represent respondent husband has strongly opposed the application contending that, it would be inconvenient for husband to travel to Georai, to attend the Court and he is ready to bear expenses of wife for traveling from Georai to Nashik.

5. It is well settled principle of law that ordinarily 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."

6. In the light of aforesaid ratio and considering the fact that it would be inconvenient for wife to travel distance of more

than 300 Kms and as respondent husband is already attending proceedings filed by applicant wife under Protection of Women from Domestic Violence Act, at Georai, application deserves to be allowed. Hence, the following order:-

ORDER

1. Miscellaneous Civil Application is allowed.
2. Marriage Petition No.B-18/2020 pending before the Family Court, Nashik, is hereby transferred to the Court of learned Civil Judge Junior Division, Georai, District Beed.
3. Fees of learned advocate appointed to represent respondent husband is quantified at Rs.2,500/-. High Court Legal Services, Sub-Committee, Aurangabad, to pay the same within a period of four weeks from today.

(NITIN B. SURYAWANSHI, J.)