

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

MISC.CIVIL APPLICATION NO.108 OF 2023

Dipika Krushna Pendalwar
Age- 28 years, Occ- Household,
R/o. C/o. Santosh Shrikant Ramgirvar
Gurukrupa Nivas, Sadesatara Nail,
Hadapsar, Pune. Applicant/Ori. Respondent

Versus

Krushna Balasaheb Pendalwar
Age- 34 years, Occ- Labor,
R/o. Jijamata Road Near R.K. Hotel
Parbhani. Respondent/Ori. Petitioner

Mr. V.S. Palsikar, Advocate for the applicant.
Mr. A.N. Patil Barhate, Advocate for the respondent.

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[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 24th AUGUST, 2023

ORDER :

1. This application is filed by the applicant/wife seeking transfer of proceeding i.e. Petition No. A-93/2022, filed by respondent/husband, from Family Court, Parbhani to Family Court, Pune.

2. Heard the learned advocate for the applicant and learned advocate for the respondent. Perused the memo of application, annexures thereto and the reply filed by respondent.

3. It is the contention of the wife that she resides at Hadapsar, Pune and Petition No. A-93/2022 is pending at Family Court, Parbhani and therefore to attend the said proceeding she has to travel 390 km. Her parents are old and infirm and they are unable to travel such a long distance along with her on every date. She hails from poor family and is unable to bear expenses of traveling.

4. Learned advocate for the husband vehemently opposed the prayer of the applicant for transfer of Petition No. A-93/2022, from Family Court, Parbhani to Family Court, Pune.

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

6. 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."

7. 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, Parbhani. In view of above, application deserves to be allowed. Hence, the following order:

ORDER

- I) Civil Miscellaneous Application is allowed.
- II) Petition No. A-93/2022, pending in Family Court, Parbhani is hereby transferred to the Family Court at Pune.

[NITIN B. SURYAWANSHI, J.]