

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

MISC.CIVIL APPLICATION NO.152 OF 2023

Pooja w/o Amit Lodha
Age- 37 years, Occ- Household,
C/o. Sureshmal Rajmal Bedmutha,
R/o. Rajwada, Near Jain Bhavan,
Manmad, Tq. Nandgaon,
Dist. Nashik.

Applicant

Versus

Amit s/o Premchand Lodha
Age- 36 years, Occ- Business,
R/o. Jain Mandir Road, Selu,
Tq. Selu, Dist. Parbhani.

Respondent

Mr. R.G. Nirmal h/f. Mr. S.S. Gangakhedkar, Advocate for
applicant.
Mr. V.D. Khivesara, 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. Hindu Marriage Petition No. 230/2020 filed by respondent/husband in the Court learned Civil Judge, Senior Division, Parbhani to learned Civil Judge, Senior Division, Malegaon.

2. It is the contention of the wife that she has filed PWDV No. 4/2021 in the Court of learned Judicial Magistrate

First Class, Manmad and HMP No. 209/2023 in the Court of learned Civil Judge, Senior Division, Malegaon. She has two children aged about 11 years and 8 years. She is residing with her parents at Nashik. Since, applicant is financially dependent upon her parents, it is difficult for her to attend the proceeding at Parbhani which is at 352 km from Nashik. She therefore prays for transfer of Hindu Marriage Petition No. 230/2020 from learned Civil Judge, Senior Division, Parbhani to learned Civil Judge, Senior Division, Malegaon.

3. Learned advocate for the husband vehemently opposed the prayer of the wife.

4. 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.

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 since proceedings i.e. PWDV No. 4/2021 and Hindu Marriage Petition No. 209/2023, are pending at Nashik, and it would cause inconvenience and hardship to wife if she asked to travel such a long distance with her children, it is desirable to transfer proceeding i.e. Hindu Marriage Petition No. 230/2020 pending in the Court of learned Civil Judge, Senior Division, Parbhani to learned Civil Judge, Senior Division, Malegaon. In the result, following order:

ORDER

1. Civil Miscellaneous Application is allowed.
2. Hindu Marriage Petition No. 230/2020 filed by respondent/husband in the Court of learned Civil Judge, Senior Division, Parbhani, is hereby transferred to the learned Civil Judge, Senior Division, Malegaon.

[NITIN B. SURYAWANSHI, J.]