

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

MISC.CIVIL APPLICATION NO.150 OF 2023

Sao. Shamal @ Shambala W/o Swapnil Mundhe
Age- 30 years, Occ- Nil,
R/o. C/o. Ashok Laxman Avhad,
Plot No. 231, Cidco, Mahanagar-1,
Tisgaon, Bajaj Nagar, MIDC Waluj,
Aurangabad, Dist. Aurangabad.

Applicant

Versus

Swapnil Trimbak Mundhe
Age- 34 years years, Occ- Service,
R/o. Flat No. H-403, Austiya Builder Group,
Alandi-Dehu Road, Dudulgaon, Pune- 411 002. Respondent

Mr. R.H. Mewara, Advocate for applicant.

Ms.Mayuri Kasturkar, appointed Advocate for respondent.

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[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 12th OCTOBER, 2023

ORDER :

1. This application is filed by applicant/wife seeking transfer of proceeding i.e. Marriage Petition No. 787/2019 filed by respondent/husband in the Court learned 7th Joint Civil Judge, Senior Division and Additional C.J.M., Pune to learned Joint Civil Judge, Senior Division, Aurangabad and transfer of Criminal Misc Application No. 1002/2018 filed by her before learned Judicial Magistrate First Class, Ahmednagar to Judicial Magistrate First Class, Aurangabad.

2. It is the contention of the wife that she has filed Criminal Misc. Application No. 1002/2018 before learned Judicial Magistrate First Class, Ahmednagar against respondent. She is residing with her parents at Aurangabad. She has one daughter aged about 6 years. Her daughter is suffering from medical problems and she need constant medical treatment. Distance between Pune to Aurangabad is about 250 km and it is difficult for her to travel such a long distance with her daughter. She therefore prays for transfer of Marriage Petition No. 787/2019 from learned 7th Joint Civil Judge, Senior Division and Additional C.J.M, Pune to learned Civil Judge, Senior Division, Aurangabad.

3. Learned advocate for the husband vehemently opposed the prayer contending respondent is ready to cohabit with applicant and bear travelling expenses.

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 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."

6. In the light of aforesaid ratio and since it would cause inconvenience and hardship to wife if she asked to travel such a long distance to attend the proceeding at Pune, it is desirable to transfer proceeding i.e. Marriage Petition No. 787/2019 pending before learned 7th Joint Civil Judge, Senior Division and Additional C.J.M., Pune to learned Joint Civil Judge, Senior Division, Aurangabad. In the result, following order:

ORDER

1. Civil Miscellaneous Application is allowed.
2. Marriage Petition No. 787/2019 filed by respondent/husband in the Court of learned 7th Joint Civil Judge, Senior Division and Additional C.J.M., Pune is hereby transferred to learned Joint Civil Judge, Senior

Division, Aurangabad.

3. Criminal Misc. Application No. 1002/2018 filed by applicant/wife in the Court of learned Judicial Magistrate First Class, Ahmednagar is hereby transferred to learned Judicial Magistrate First Class, Aurangabad.

7. Fees of learned advocate appointed to represent respondent is quantified at Rs. 2500/-to be paid by High Court Legal Services (Sub-Committee), Aurangabad, within a period of four weeks from the date of receipt of this order.

[NITIN B. SURYAWANSHI, J.]