

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

MISC.CIVIL APPLICATION NO.162 OF 2023

Vidya w/o Nitin Pawar @ Vidya d/o Ganpat Rathod,
Age- 24 years, Occ- Household,
C/o. Ganpat Rathod,
R/p. Paregaon, Post. Manegaon,
Dist. Jalna.

Applicant

Versus

Nitin s/o Sitaram Pawar
Age- 27 years years, Occ- Service,
R/o. Plot No. 23-A, Swarajya Vihar,
Khandobachi Ali, Sanaswadi,
Tq. Shirur, Dist. Pune.

Respondent

Mr. A.K. Tiwari, Advocate for applicant.
Mr. Akash Peche, appointed Advocate for respondent.

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[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 12th OCTOBER, 2023

ORDER :

1. Leave to correct.
2. This application is filed by applicant/wife seeking transfer of proceeding i.e. Marriage Petition No. 606/2022 filed by respondent/husband in the Court learned Civil Judge, Senior Division, Pune to Family Court, Jalna.
3. It is the contention of the wife that two matrimonial proceedings filed by her against husband are pending at Family

Court, Jalna and in the Court of Judicial Magistrate First Class, Jalna. She is residing at Jalna, with her parents and she has child of two years of age. Distance between Pune to Jalna is about 296 km. She hails from poor family and it is difficult for her to travel such a long distance with her child and bear travelling expenses. She therefore prays for transfer of Marriage Petition No. 606/2022 from learned Civil Judge, Senior Division, Pune to Family Court, Jalna.

4. Learned advocate for the husband vehemently opposed the prayer contending that wife is well educated and doing job and therefore it is not difficult for her to bear travelling expenses.

5. 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.

6. 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."

7. In the light of aforesaid ratio and since two proceedings are pending at Jalna and it would cause inconvenience and hardship to wife if she asked to travel such a long distance with small child, to attend the proceeding at Pune, it is desirable to transfer proceeding i.e. Marriage Petition No. 606/2022 pending in the Court of learned Civil Judge, Senior Division, Pune to Family Court, Jalna. In the result, following order:

ORDER

1. Civil Miscellaneous Application is allowed.
2. Marriage Petition No. 606/2022 filed by respondent/husband in the Court of learned Civil Judge, Senior Division, Pune, is hereby transferred to the Family Court, Jalna.

8. 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.]