

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

MISC. CIVIL APPLICATION NO.191 OF 2022

Pranali Pankajkumari Waghmare Applicant

Versus

Pankajkumar Ashok Waghmare Respondent

.....

Mr. G.R. Sayed, Advocate for the Applicant

Mr. Vijay V. Deshmukh, Advocate for the Respondent

.....

[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 14th September, 2023

ORDER :

1. This application is filed by the applicant/wife seeking transfer of proceeding i.e. Hindu Marriage Petition No.562 of 2021, filed by respondent/husband for divorce, in the Court of learned Civil Judge, Senior Division, Thane to the Family Court at Dhule.

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

3. Learned advocate for the applicant/wife submits that applicant/wife is residing at Nardana, Tq. Shindkheda, Dist. Dhule. The distance between Dhule and Thane is about

300 km. It would be inconvenient for her to travel such a long distance. She is unemployed and is unable to bear the traveling expenses.

4 It is further contention of the wife that proceedings i.e. Cri. Misc. Application No.562 of 2021, Petition A No.145 of 2022 and Petition E No.115 of 2022 are pending before the Courts at Dhule, therefore, the proceeding filed by the respondent/husband at Thane, may be transferred at Dhule.

5. Learned advocate for the respondent/husband vehemently opposed the prayer contending that the applicant/wife is a practicing advocate and is an educated independent lady, who is earning handsome income. He submits that the respondent/husband is the sole earning member from his family and therefore he has responsibility to look after his entire family and his old aged parents, who are suffering from old age related ailments.

6. Admittedly, Cri. Misc. Application No.562 of 2021, Petition A No.145 of 2022 and Petition E No.115 of 2022 are pending before the Courts at Dhule.

7. It is well settled principle of law that 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."

8. In the light of aforesaid ratio and considering the fact that proceedings i.e. Cri. Misc. Application No.562 of 2021, Petition A No.145 of 2022 and Petition E No.115 of 2022, filed by the applicant/wife are pending before the Courts at Dhule, it is desirable to transfer proceeding of Hindu Marriage Petition No.562 of 2021 pending in the Court of Civil Judge, Senior Division, Thane to the Family Court at Dhule. In the result, following order:

ORDER

- (I) Civil Miscellaneous Application is allowed.
- (II) Hindu Marriage Petition No.562 of 2021 pending before the Court of Civil Judge, Senior Division, Thane is hereby transferred to the Family Court at Dhule.
- (III) The respondent/husband is at liberty to apply the Court at Dhule for attending the matter virtually. The said request be favourably considered by the Trial Court.

**[NITIN B. SURYAWANSHI]
JUDGE**

S.P. Rane