

**IN THE HIGH COURT OF JUDICATURE OF BOMBAY**  
**BENCH AT AURANGABAD**

**MISC.CIVIL APPLICATION NO.171 OF 2023**

Mrs. Manisha Alias Komal Dhananjay Ambilwade,  
Age- 29 years, Occ- Housewife,  
C/o. Pandit Baburao Dahale,  
R/o. Hanuman Nagar, Galli No. 3,  
Aurangabad-431005.

Applicant

Versus

Mr. Dhananjay Bharat Ambilwade,  
Age- 31 years, Occ- Service,  
R/o. At Post Usthal Dumala,  
Tq. Newasa, Dist. Ahmednagar- 414609  
At Present Office,  
S.T. Mahamandal, Workshop,  
Mukundwadi, Chikalthana, MIDC,  
Jalna Road, Aurangabad- 431005.

Respondent

Mr. Dinesh Manwatkar h/f. Mr. S.S. Randive, Advocate for  
applicant.

Mr. Manoj Dond, Advocate for respondent.

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**[CORAM : NITIN B. SURYAWANSHI, J.]**

**DATE : 12<sup>th</sup> OCTOBER, 2023**

**ORDER :**

1. This application is filed by the applicant/wife seeking transfer of proceeding i.e. Marriage Petition No. 98/2022 filed by respondent/husband in the Court learned Civil Judge, Senior Division, Newasa to Family Court, Aurangabad.

2. It is the contention of the wife that she has filed

PWDV No. 97/2022, which is pending before learned Judicial Magistrate First Class, Aurangabad. She is residing with her father at Aurangabad. Her father is senior citizen and is unable to attend the proceeding with applicant on each and every date. She therefore prays for transfer of Marriage Petition No. 98/2022 from learned Civil Judge, Senior Division, Newasa to Family Court, Aurangabad.

3. Learned advocate for the husband vehemently opposed the prayer contending Marriage Petition No 98/2022 is at the stage of evidence and at the fag end it is not desirable to transfer the said proceeding to Family Court, Aurangabad.

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 proceeding i.e. PWDV No. 97/2021, is pending in the court of learned Judicial Magistrate First Class, Aurangabad, it is desirable to transfer proceeding i.e. Marriage Petition No. 98/2022 pending in the Court of learned Civil Judge, Senior Division, Newasa to Family Court, Aurangabad. In the result, following order:

**ORDER**

1. Civil Miscellaneous Application is allowed.
2. Marriage Petition No. 98/2022 filed by respondent/husband in the Court of learned Civil Judge, Senior Division, Newasa, is hereby transferred to the Family Court, Aurangabad.

**[NITIN B. SURYAWANSHI, J.]**