

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

**MISC.CIVIL APPLICATION NO.178 OF 2023**

Smt. Dipali Laxmikant Maid

Applicant

Versus

Laxmikant Balajirao Maid

Respondent

Mr. S.T. Shelke, Advocate for the applicant.

Ms. Pranoti Karpe, Advocate for the respondent.

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

**DATE : 31<sup>st</sup> AUGUST, 2023**

**ORDER :**

1. Leave to correct prayer clause. Correction to be carried out forthwith.

2. This application is filed by the applicant/wife seeking transfer of proceeding i.e. Hindu Marriage Petition No. 131/2022, pending before Civil Judge, Senior Division, Pusad, Yeotmal to Family Court, Parbhani.

3. It is the contention of the wife that she resides at Parbhani and therefore to attend the proceeding at Pusad Court she has to travel about 144 km. Her parents are old and infirm and they are unable to travel such a long distance along with her

on every date. She has one son and daughter, aged about 7 years and 4 years respectively and therefore it is difficult to travel such a long distance with children. She has no source of income and therefore she is unable to bear expenses of traveling.

4. Learned advocate for the husband vehemently opposed the prayer of the applicant for transfer of Hindu Marriage Petition No. 131/2022, pending before Civil Judge, Senior Division, Pusad, Yeotmal to Family Court, Parbhani. She submits that serious hardships will be caused to the husband if the proceeding is transferred from Pusad Court to Family Court, Parbhani. She further submits that by order dated 07.06.2023 passed by the learned Civil Judge, Senior Division, Pusad, Yavatmal, visitation rights are given to the respondent/husband, which are to be exercised at Pusad.

5. Heard the learned advocate for the applicant and learned advocate for the respondent. Perused the memo of application, annexures thereto.

6. It is well settled principal of law that ordinarily convenience of the wife needs to be considered while deciding

application for transfer of proceeding.

7. 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."*

8. There is merit in the contention of the wife that it would cause inconvenience and hardship to her if she asked to travel such a long distance to attend the proceeding at Pusad. In view of above, application deserves to be allowed. Hence, the following order:

**ORDER**

- I) Civil Miscellaneous Application is allowed.
- II) Hindu Marriage Petition No. 131/2022, pending before

Civil Judge, Senior Division, Pusad is hereby transferred to the Family Court at Parbhani.

9. Respondent/husband will be entitled to exercise his visitation rights in terms of the order dated 07.06.2023, passed by learned Civil Judge, Senior Division, Pusad, District Yavatmal, below Exhibit-22, at Family Court, Parbhani.

10. Fees of learned advocate Ms. Pranoti Karpe, appointed to represent the respondent is quantified at Rs. 2500/-, to be paid by High Court Legal Services Authority, Sub Committee, Aurangabad.

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