

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

MISC.CIVIL APPLICATION NO.190 OF 2023

Miss Chaitali W/o Tushar Bhirad
Age- 29 years, Occ- Household,
R/o. C/o Rajendra Daulatrao Mansute
340, Joshi, Peth, Bhoi, Galli, Jalgaon,
Tq. & Dist. Jalgaon.

Applicant

Versus

Mr. Tushar S/o Mahendra Bhirad
Age- 33 years, Occ- Agri/Business,
R/o. 3 Bungalow, Balapur Road,
Bhiradwadi, Akola,
Tq. & Dist. Akola.

Respondent

Mr. M.B. Sandanshiv, Advocate for applicant.
Ms. Mayuri Kasturkar, 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. 300/2022 filed by respondent/husband in Family Court at Akola to Family Court at Jalgaon.

2. It is the contention of the wife that she has filed PWDV No. 15/2022 in the Court of learned Judicial Magistrate First Class, Jalgaon against her husband. She is residing with her parents along with three year old child. Distance between

Jalgaon to Akola is about 250 km 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. 300/2022 from Family Court, Akola to Family Court, Jalgaon.

3. Learned advocate for the husband has not seriously opposed the prayer for transfer. His only request is that all the proceedings may be clubbed together and heard on one date.

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 proceedings i.e. PWDV No. 15/2022 is pending at Jalgaon and it would cause inconvenience and hardship to wife if she asked to travel such a long distance to attend the proceeding at Akola, it is desirable to transfer proceeding i.e. Hindu Marriage Petition No. 300/2022 pending in Family Court, Akola to Family Court at Jalgaon. In the result, following order:

ORDER

1. Civil Miscellaneous Application is allowed.
2. Marriage Petition No. 300/2022 filed by respondent/husband in the Family Court, Akola is hereby transferred to the Family Court, Jalgaon and is clubbed with PWDV No. 15/2022, to be heard on one date every time.

[NITIN B. SURYAWANSHI, J.]