

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

MISC. CIVIL APPLICATION NO. 340 OF 2022

Mrs. Puja W/o Mahesh Gujjar Applicant

Versus

Mahesh Bhagwan Gujjar Respondent

.....

Ms. Karishma Sarin, Advocate h/f Mr. S.S. Shendurnikar,
Advocate for the Applicant

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[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 12th OCTOBER, 2023

ORDER :

1. Leave to correct the prayer clause.
2. Though duly served none appears for respondent/
husband.
3. This application is filed by applicant/wife seeking
transfer of proceedings i.e. Misc. Application No.112 of 2022
filed by respondent/husband, in the Court of Civil Judge,
Senior Division, Osmanabad to the Court of Civil Judge Senior,
Division, Pune.
4. It is the contention of applicant that respondent/
husband has filed H.M.P. No.42 of 2017, for divorce, the same
is allowed *ex parte*, without awarding maintenance. Thereafter,

respondent/husband filed Misc. Application No.112 of 2022, under Section 6 of the Hindu Minority and Guardianship Act, for custody of minor son. As the applicant is divorcee, she is helpless. She is residing with his mother at Pimpri. Though, respondent/husband is residing at Pune, only with a view to harass the applicant/wife, he has filed the proceeding at Osmanabad. Distance between Pune and Osmanabad is about 265 km. it is very difficult for her to travel such a long distance to attend the proceedings at Osmanabad. She has no source of income and it is difficult for her to bear the traveling expenses.

5. 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."

7. 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 proceedings at Osmanabad. In view of above, application deserves to be allowed. Hence, the following order:

ORDER

- (I) Civil Miscellaneous Application is allowed.
- (II) Misc. Application No.112 of 2022, pending before the Civil Judge, Senior Division, Osmanabad is hereby transferred to Civil Judge, Senior Division, Pune.

**[NITIN B. SURYAWANSHI]
JUDGE**

S.P. Rane