

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

MISCELLANEOUS CIVIL APPLICATION NO. 175 OF 2022

Priti @ Bhagyashri Sachin Kadam
cant

.. Appli-

v/s.

Sachin Sitaram Kadam

.. Respondent

...

Mr. Yogesh S. Palve for the applicant.

...

CORAM : KAMAL KHATA, J.

DATED : 22ND JUNE 2023.

P.C. :

1. Heard learned counsel for the applicant. The present application is for transfer of Marriage Petition no.75/2020 from Civil Judge, Senior Division, Panvel Civil Judge, Senior Division, Islampur.

2. The applicant's case is that the marriage took place on 4th May 2017 at Vategaon, Taluka Valwa, District Sangli. There are no issues out of the said wedlock. On account of marital discord, the applicant is staying separately since 26th April 2018 with her parents. The applicant has filed criminal proceedings bearing Criminal Application no.104 of 2019

before J.M.F.C., Islampur, District Sangli. On the other hand, the respondent-husband has filed a Marriage Petition No.75/2020 for Restitution of Conjugal Rights before Civil Judge, Senior Division, Panvel, District-Raigad and the applicant – wife filed for divorce at Islampur, District Sangli bearing Petition no.225/2021.

3. Learned counsel for the applicant submits that the applicant is unable to travel as she has no source of income and is dependent upon her parents for livelihood. No maintenance whatsoever has been received by her so far. The distance between Islampur and Panvel is around 300 kms. which would take considerable time and a night halt would be inevitable which would cause severe inconvenience. He accordingly submits that the application be made absolute.
4. None appeared for the Respondent though served.
5. The law with respect to transfer of proceedings, particularly matrimonial disputes, is no longer *res-integra*. The ratio laid down by the Hon'ble Supreme Court in the cases of ***Sumita Singh v. Kumar Sanjay reported in (2001) 10 SCC 41 : AIR 2002 SC 396*** and ***N.C.V. Aishwarya v. A. S. Saravana Karthik Sha reported in 2022 SCC OnLine 1199*** that in mat-

rimonial disputes, it is the convenience of the wife which is preferred over the convenience of the husband while considering the transfer of a case from one Court to another. In view of the above, I am inclined to allow this application and pass the following order;

(i) Application is allowed in terms of prayer clause (b).

(ii) The proceedings and application made in M.P. No.75/2020 pending before Civil Judge, Senior Division, Panvel, District – Raigad be stayed pending transfer; and be transferred to the Civil Judge, Senior Division, Islampur, District-Sangli.

(iii) The Registry shall forward a copy of this order to the Civil Judge, Senior Division, Panvel, District-Raigad with instructions to forthwith transmit all the records of M.P No.75/2020 between the Respondent and Applicant to the Civil Judge, Senior Division, Islampur, District-Sangli preferably within 4 weeks from the receipt of this order.

(iv) The Civil Judge, Senior Division, Panvel, District-Raigad shall on receipt of the records of M.P. No.75/2020, fix a date preferably within 3 weeks and

issue notice to the parties for proceeding with the matter.

(v) All concerned to act on the authenticated copy of this order.

(KAMAL KHATA, J.)