

AGK

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

MISCELLANEOUS CIVIL APPLICATION NO.267 OF 2022

Shifa W/O. Rizwan Shaikh
Alias Shifa Ilahi Muzawar ... Applicant

V/s.

Rizwan S/O. Usman Shaikh and Anr. ... Respondents

Ms. Anushka Shreshtha for the applicant.

Mr. Hasnain Kazi i/by Ms. Shraddha S. Vavhal for the respondents.

CORAM : AMIT BORKAR, J.

DATED : FEBRUARY 17, 2023

RC.:

- 1.** The wife has filed present miscellaneous civil application seeking transfer of proceedings pending before the Family Court, Pune to the Family Court, Kolhapur.
- 2.** The marriage between applicant and respondent took place on 16th January 2015. Out of said wedlock, the applicant and respondent are blessed with baby boy. Due to matrimonial differences between the parties, the applicant has filed proceedings under the provisions of Protection of Women from Domestic Violence Act before the Judicial Magistrate First Class, Kolhapur. The husband has filed proceedings for restitution of conjugal rights before the Family Court, Pune.
- 3.** On notice being issued by this Court, the respondent has

filed reply contesting the application. According to the petitioner, since the Family Court, Pune is having video conferencing facility, it is not necessary to transfer the proceedings. Additionally, according to him he is ready to take wife back and, therefore, there is no need to transfer proceedings. It is further submitted that since the husband is daily wage worker, the proceedings should not be transferred.

4. Having considered the submissions and having heard learned advocates for the parties, it appears that the distance between Kolhapur and Pune is around 250 kms. which takes around four (4) hours to reach to Court. Additionally the applicant needs to take care of their minor son aged six (6) years. Therefore, it is inconvenient for her to travel to Pune.

5. The Apex Court in **N.C.V. Aishwarya v. A.S. Sarvana Karthik Sha** reported in 2022 SCC OnLine SC 1199 while considering the issue of transfer of proceedings on an application filed by the wife in paragraph 9 held as under:

“**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 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 socio-economic paradigm in the Indian society, generally, it is the convenience which must be looked at while considering transfer.

6. Considering inconvenience caused to the wife, the applicant has made out a case for transfer.
7. The miscellaneous civil application is, therefore, allowed in terms of prayer clause (i). No costs.

(AMIT BORKAR, J.)