

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

MISCELLANEOUS CIVIL APPLICATION NO. 158 OF 2023

Monika Sunil Taral

..... Applicant

VERSUS

Sunil Kallapp Taral

..... Respondent

Mr. Rahul Vijaymane i/b. Mr.S.A.Rajeshirke for the Applicant.

CORAM: ABHAY AHUJA, J.

DATE : 7th SEPTEMBER, 2023

P.C:-

By this application the applicant is seeking transfer of Petition No. 558 of 2019 filed by the respondent husband for dissolution of the marriage before the Family Court, Pune to the Family Court Sangli.

2. Mr. Vijaymane, learned counsel for the applicant wife would submit that soon after the solemnization of the marriage on 28th July, 2017 at Pune between the applicant and the respondent on 28th August, 2017, due to financial demands and physical assault of the respondent husband on the applicant, the applicant left the matrimonial home and came to stay with her parents at Sangli.

3. Learned counsel would submit that the proceedings for

dissolution of marriage were filed by the respondent husband in Pune in the year 2018 to which the applicant wife has filed written statement and also attended the Pune Court twice. He would submit that although the applicant is well qualified viz. M.A., B.Ed., but is not working and fully dependent on her father for her sustenance. Learned counsel would submit that the applicant has filed domestic violence proceedings against the respondent husband before the J.M.F.C., Sangli in the year 2019. He would submit that the distance between Sangli and Pune is 250 kms one way. To attend the Family Court at Pune every time the matter is listed is not only inconvenient to the applicant but also causes undue hardship to her. Learned counsel would submit that she has to not only travel alone but also take money from her father to go to the Family Court at Pune.

4. Learned counsel would submit that on the other hand, the respondent husband has a business of electronic goods and is well to do and travel from Pune to Sangli would not cause any inconvenience or hardship to him.

5. Learned counsel further submits that the applicant's witnesses

are also in Sangli and therefore it would be in the interests of justice if the proceedings pending before the Court in Pune are transferred to the Family Court at Sangli.

6. The record indicates that although the respondent has been served, he has chosen neither to remain present nor to be represented. On 22nd August, 2023, when this matter was listed, the following order was passed :-

When the matter is called out, learned counsel for the applicant informs the Court that the service to the respondent is complete. However, none appears on behalf of the respondent. List this matter on 5th September, 2023.

2. It is made clear that if none appears for the respondent on the next date or the respondent is not represented, this Court will proceed to pass appropriate orders.

7. Today again no one is present on behalf of the respondent husband and it is clear that the respondent is not interested in opposing this application.

8. It is settled law that the convenience and hardship of the wife is of paramount consideration while considering transfer application

under section 24 of the Code of Civil Procedure, 1908.

9. Paragraph 9 of the decision of the Hon'ble Supreme Court in case of *N.C.V. Aishwarya Vs. A.S. Saravana Karthik Sha*, **SCC Online SC 1199 (2022)** where the Hon'ble Supreme Court has clearly observed that in proceedings of this nature it is the convenience of the wife that has to be considered is quoted 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 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 like. Given the prevailing socio-economic paradigm in the Indian society, generally, it is the wife's convenience which must be looked at while considering transfer.”

(Emphasis Supplied)

10. Accordingly having heard learned counsel for the applicant wife and having perused the application, this Court is of the view that the ends of justice would be met if the proceedings in the Family Court at Pune are transferred to the Family Court at Sangli. Ergo, the

application is made absolute in terms of prayer clause (a) which reads thus :-

(a) By a suitable order or direction, this Hon'ble Court may be pleased to transfer the proceedings of Petition No. 558 of 2019 filed by the Respondent and pending before the Family Court, Pune to the Hon Family Court, Sangli.

11. It is made clear that any observations on the merits of the dispute between the parties is only to consider this application which shall not influence the trial or disposal of the Marriage Petition which is to be tried and decided on its own merits uninfluenced by the said observations.

[ABHAY AHUJA, J.]