

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

MISCELLANEOUS CIVIL APPLICATION NO.342 OF 2022

Manisha @ Tanvi W/o . Rahul Shinde and Anr.	.. Applicants
v/s.	
Rahul S/o Chandrakant Shinde	..Respondent

**WITH
MISCELLANEOUS CIVIL APPLICATION(ST.) NO.22204 OF 2022**

Rahul S.O. Chandrakant Shinde	.. Applicant
v/s.	
Manisha @ Tanvi W/o . Rahul Shinde	..Respondent

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Mr. Abhishek D. Nagode for the Applicant in MCA No.342 of 2022.
Mr. Sachinkumar Rajepandhare for the Applicant in MCA(st)
No.22204 of 2022 and Respondent in MCA No.342 of 2022.

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CORAM : KAMAL KHATA, J.

DATED : 12TH JULY, 2023.

P.C. :

MISCELLANEOUS CIVIL APPLICATION NO.342 OF 2022

1. This Miscellaneous Civil Application is filed by the Applicant wife under section 24 of the Civil Procedure Code 1908, for transfer of Hindu Marriage Petition No.63 of 2022, filed by the Respondent husband from Civil Judge Senior Division, Pandharpur, Dist Solapur, to Civil Judge, Senior Division, Ahmednagar.

2. The Applicant's case is that this is Respondent's second marriage. From the earlier marriage the Respondent had two children viz. daughter and son. The first wife of the Respondent passed on 24th May 2018. Even for the Applicant it was a second marriage. The Applicant obtained a divorce on 15th November 2017 and had no issues from the earlier marriage. The present marriage with the Respondent took place on 19th March 2020, at Pandharpur. It is stated that soon after the marriage the Applicant was being ill treated. In July 2021, the Applicant was pregnant and went to her parental home at Ahmednagar. On 9th October 2021 the baby girl was born. It is stated that the Respondent refused to allow the Applicant to come back to her matrimonial home and consequently she was forced to stay with her parents. Since the Respondent failed to take up the parental responsibilities of maintaining the child and the Applicant, the Applicant filed a proceeding u/s 125 of the Code of Criminal Procedure before the Family Court at Ahmednagar. On the other hand, the Respondent filed a petition for divorce at Pandharpur, Dist Solapur under Section 13 bearing Marriage Petition No. 63 of 2022. The Applicant filed a counter application seeking restitution u/s

9 of the Hindu Marriage Act in the same Court at Pandharpur through her Advocate.

3. The learned counsel for the applicant submits that there is no maintenance be paid so far. She has one and half year old child to look after and, therefore, the applicant is unable to travel. The distance between Ahmednagar to Solapur is around 250 kms. and therefore traveling with or without the child would cause her tremendous hardship and inconvenience to both the mother and the child. Further she has no source of income and she has not been paid any compensation so far by the respondent-husband. Hence it is extremely difficult to bear the travelling expenses also. She would also have to arrange for some companion to travel with her on the court dates with the child. In addition to this the respondent had also issued threats to the Applicant and hence apprehends physical abuse by the Respondent or his family. On the other hand, the respondent is well placed and would not have any inconvenience to travel. He accordingly submits that the application be made absolute.
4. On the other hand, it is stated in the reply that the proceedings for maintenance is merely to harass the Respondent. It is stated that the same allegations were made by the Applicant in the divorce petition filed against her

previous husband. It is stated that the Applicant was neglecting the children of the Respondent from the first marriage by not giving food and physically assaulting them. It is further stated that by an order dated 30th July 2022 upon an application filed interim maintenance, travelling expense and advocate expenses have been awarded to the Applicant. It is stated that the Respondent's mother who is aged is unable to look after the two children. It is submitted that whilst the Applicant is staying in a joint family he has to single handedly look after the children. In view thereof, he too has difficulty to travel to Ahmednagar to contest the matter filed by the applicant.

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 matrimonial 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.
6. In my view it would be in the interest of justice that the respondent may apply to the Court at Ahmednagar to allow

the respondent to use video conferencing facilities and dispense with the physical presence, except when required, the court to consider the same.

7. In view of the aforestated circumstances narrated by the applicant, I am inclined to allow this application and pass the following order;

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

(ii) The proceedings and application made in M.P. No. 63 of 2022, pending before Civil Judge Senior Division Pandharpur, Dist Solapur be stayed pending transfer; and be transferred to Civil Judge, Senior Division, Ahmednagar, Dist. Ahmednagar.

(iii) The transfer may be effected within a period of four weeks and upon receipt of the papers and proceedings the C.J.S.D. Ahmednagar, shall give notice to the parties, preferably within three weeks, to proceed with their respective matters.

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

8. The Miscellaneous Civil Application stands disposed of.

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9. In view of the orders passed therein, the application of the husband is rejected.
- 10.The learned counsel for the applicant is agreed on instructions not to oppose the application for the matter to be conducted by way of video conferencing facility and the respondent may avail of the same.
- 11.Learned counsel for the applicant, however, expresses his apprehension that the respondent will not appear even through video conferencing.
12. The learned counsel for the respondent in response, he shall appear and undertakes to the Court that he shall appear through video conferencing on each of the date when called upon to appear. Save and except in case of some personal difficulty which will be set out by way of affidavit before the Court.
- 13.The Miscellaneous Civil Application stands disposed of.

(KAMAL KHATA, J.)