

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

MISCELLANEOUS CIVIL APPLICATION NO. 392 OF 2022

Mrs. Savita Sachin Margale	.. Applicant
v/s.	
Sachin Namdev Margale	.. Respondent

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Dr. Ramesh R. Asawa – Legal Aid Counsel for the applicant.
None for the respondent.

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CORAM : KAMAL KHATA, J.

DATED : 19TH JUNE 2023.

P.C. :

1. Heard learned counsel for the applicant. The present application is for transfer of Marriage Petition no.A-47/2022 from Civil Judge, Senior Division, Vita to Family Court, Bandra.

2. The applicant's case is that the marriage took place at Vita on 26th December 2012. Out of said wedlock, the applicant gave birth to two daughters aged about 6 years and 3 years. On account of marital discord, the applicant is staying separately with her minor daughters at the address

mentioned in the cause title.

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 the financial aid from parents. The distance between Mumbai to Sangli is around 400 kms. which would take considerable time of period. DV case is filed in Mumbai and the Marriage Petition is being filed in Vita only to harass the applicant. 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 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. 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 clauses (a) and (b).

(ii) The proceedings and application made in M.P. No. A-47/2022 pending before the Civil Judge, Senior Division, Vita be stayed pending transfer; and be transferred to the Family Court, Bandra from Civil Judge, Senior Division, Vita.

(iii) The Registry shall forward a copy of this order to the Civil Judge, Senior Division, Vita, with instructions to forthwith transmit all the records of M.P No.A-47/2022 between the Respondent and Applicant to the Family Court, Bandra preferably within 4 weeks from the receipt of this order.

(iv) The Family Court, Bandra shall on receipt of the records of M.P. No.A-47/2022, 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.)