

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

MISCELLANEOUS CIVIL APPLICATION NO. 138 OF 2022

Mrs. Neeta Shriniwas Khiste @
Neeta Madhukar Deo. ... Applicant
v/s.
Mr. Shriniwas Shashikant Khiste. ... Respondent

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Mr. Vinod P. Sangvikar a/w. Ms. Namrata Vora, for the Applicant.

Mr. Umesh Kurund, for respondent.

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CORAM : KAMAL KHATA, J.

DATED : 1ST AUGUST, 2023.

P.C. :

1. This Miscellaneous Civil Application is filed by the applicant-wife under Section 24 of the Civil Procedure Code, 1908 to transfer Divorce Petition No. A-1844 of 2021 which is pending before the Family Court, Pune to Additional Sessions and District Court at Barshi, Dist. Solapur.

2. The Applicant's case is that her marriage was solemnized on 1st January, 2011 at Alandi, Pune. Out of wedlock, a daughter was born on 30th September, 2015. Pursuant to the marriage, the couple was staying at Chinchwad, Pune. During COVID the couple went and stayed at Barshi. On 14th February, 2021, the

respondent-husband left their home at Barshi and shifted to Pune with his daughter who is now 8 years old. The respondent filed a divorce petition No. 8184 of 2021 at Family Court at Pune. The applicant filed D.V. proceedings before the JMFC, Barshi on 15th June, 2021. The learned Counsel for the applicant submits that the distance between Pune and Barshi is around 225 kms and would take around 4 and half hours for a single journey. She submits that she is staying with her 18 year old daughter. She is a graduate and she has no independent source of income.

3. Learned Counsel for the applicant submits that on the other hand the respondent is Chief Marketing Officer and is well settled. It is therefore submitted that the application be allowed.

4. Learned Counsel for the respondent submits that the applicant has been working as an Anchor in the film industry and travels to various places. Her averment in the reply that she cannot travel alone is therefore, false. The daughter from the first marriage is 18 years old and therefore, does not need to be looked after. It is submitted that he is willing to pay transport charges to the applicant as and when her presence is required by the court. He is willing to pay a sum of Rs. 1500/- for each trip that the Court requires her to attend in Court.

5. The Court in the case of Anindita Das v/s. Srijit Das¹ held

1 (2006) 9 SCC 197

that the Court is required to consider each petition on its own merits. If the travelling expenses are paid and the child can be looked after by someone then the Court may not consider the transferring the case.

6. In another case viz. **Amruta Akshay Nikte v/s. Akshay Anilkumar Nikte²** the Court held that a journey of around a 150 kms in a day cannot be considered extreme inconvenience.

7. The Apex Court in the case of **N.C.V. Aishwarya v. A. S. Saravana Karthik Sha³** held that the Courts have to consider 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 the circumstances of both the parties in eking out their livelihood and under whose protective umbrella they are seeking their sustenance to life.

8. In this case, the balance of convenience is in favour of the respondent who is a marketing officer and will undergo a lot more inconvenience and hardship if he has to travel to Barshi. He also has an 8 years' old daughter whom he has to take care of.

9. In view of the above, the application for transfer is rejected.

10. However, it is clarified that the respondent shall pay a sum of Rs. 1500/- to the applicant for each trip she is required to

2 2021 SCC Online e Bom 13811.

3 2022 SCC OnLine 1199.

attend the court.

11. Family Court, Pune may consider granting permission to the applicant to appear in court through video conferencing facility when such application is made to save the applicant from inconvenience and expense, if it is feasible and her physical presence is not absolutely necessary.

12. All concerned to act on the authenticated copy of this order.

(KAMAL KHATA, J.)