

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

MISCELLANEOUS CIVIL APPLICATION NO. 267 OF 2021

Sou. Bhagyashri Vayunandan Suryawanshi	.. Applicant
v/s.	
Shri. Vayunandan Shankar Suryawanshi	.. Respondent

...

Mr. Balwant V. Salunkhe for the applicant.

...

CORAM : KAMAL KHATA, J.

DATED : 27th JULY 2023.

P.C. :

1. This Miscellaneous Civil Application is filed by the Applicant wife under section 24 of the Civil Procedure Code 1908, for transfer of Marriage Petition No. 513/2022 filed by the Respondent husband from Learned Civil Judge Senior Division Panvel to Civil Judge, Senior Division, Sangli.

2. The Applicant's case is that the marriage took place on 22nd April 2014 at Kavathe Mahankal, Dist Sangli. Two daughters were born out of wedlock, first on 22nd December, 2016 and second on 23rd October, 2018. On account of marital discord, the applicant is staying separately with her parents. The

applicant filed a Domestic Violence application before Judicial Magistrate First Class, Kavathe Mahankal, Dist Sangli. On the other hand, the respondent had filed divorce petition on 10th August, 2021 bearing Petition No. 513 of 2021 before the Learned Civil Judge, Senior Division, Panvel.

3. Learned counsel for the applicant submits that the applicant is unable to travel from Sangli to Panvel, which is a distance of around 400 k.m. and a single journey would take approximately around 10 to 11 hours. The applicant has no independent source of income. On the other hand, the respondent-husband is a Civil Engineer and is well settled. The respondent's native place is Sangli and is also attending the proceedings at Sangli. Learned Counsel for the applicant submitted that he has served the application on the respondent by private service and even through the electronic mode as directed by this Court by an order dated 6th July 2023.
4. In spite of service of notice, neither the respondent nor his advocate is present in Court.
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***¹ and ***N.C.V. Aishwarya v. A. S. Saravana Karthik Sha***² 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 the present case the balance of convenience is in favour of the applicant wife. Her travel would be for long hours and would necessitate an over night stay at Panvel. Both would lead to an expense which would be a burden in the given circumstance where she has no source of income nor has she been given any maintenance or offered travel and accommodation expense.

7. In view thereof, I am inclined to allow this application and pass the following order;

(i) Application is allowed in terms of prayer clauses (a).

(ii) The proceedings and application made in M.P. No.513/2021 pending before Learned Civil Judge, Senior

1 (2001) 10 SCC 41 : AIR 2002 SC 396

2 2022 SCC OnLine 1199

Division, Panvel be stayed pending transfer; and be transferred to Civil Judge, Senior Division, Sangli.

(iii) The transfer may be effected within a period of four weeks and upon receipt of the papers and proceedings the Civil Judge, Senior Division, Sangli, shall give notice to the parties, preferably within three weeks, to proceed with their respective matters.

(iv) It is clarified that the Court may also consider granting video conferencing facility to the respondent in the event that his physical presence is not required.

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

(KAMAL KHATA, J.)