

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

MISCELLANEOUS CIVIL APPLICATION NO. 491 OF 2022

Radhika @ Pallavi Roshan Kundalkar	.. Applicant
v/s.	
Roshan Shivaji Kundalkar	.. Respondent

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Mr. B. A. Lawate for the Applicant.

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CORAM : KAMAL KHATA, J.

DATED : 26TH JUNE 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 Marriage Petition by the husband from Civil Judge Senior Division at Wai to Civil Judge Senior Division Pandharpur.

2. The Applicant and Respondent married on 19th March 2020 at Sangola, Dist. Solapur. Out of the said wedlock there is no issue. The respondent on 6th June, 2022 had filed Marriage Petition No. 130 of 2023 under Sections 13(1), (ia) of the Hindu Marriage Act, 1995 for dissolution of marriage. Applicant has filed Criminal Misc. Application No. 291 of 2022 u/s. 125 of Code of Criminal Procedure at J.M.F.C at Mangalwedha.

3. The learned counsel for the Applicant submitted that from April, 2021 the Applicant is residing in her parents house at

Hunnur, Tal-Mangalwedha, Solapur. There is no public transport to travel from Mangalwedha to Satara and the distance between these is about 200 kms. and take around 6 hours to and fro. No maintenance has paid to the applicant. It is submitted that the Applicant has to take care of her old aged parents and not able to attend each time for a Court date. The Respondent though well placed has failed to support the Applicant financially. She would therefore have to suffer undue hardship and expense to attend the Court each time. In view of the above, he submitted that the transfer Application be allowed.

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 :- (i) ***Sumita Singh v. Kumar Sanjay reported in (2001) 10 SCC 41 : AIR 2002 SC 396***, (ii) ***Soma Choudhary v/s Gourab Choudhury (2004) 13 SCC 462***, (iii) ***Rajani K Pardeshi v/s Kishor B Pardeshi (2005) 12 SCC 237***, (iv) ***Anjali A Sadhwani v/s Ashok K Sadhwani AIR 2009 SC 1374*** and (v) ***N.C.V. Aishwarya v. A.S. Saravana Karthik Sha reported in 2022 SCC OnLine 1199*** is that the convenience of the woman that has to be looked into, while considering the transfer of a case from one Court to another.

6. In the light of the law laid down in the aforecited decisions, the pleadings and materials on record and the totality of the facts and circumstances of this case, particularly that the applicant will suffer undue hardship and expense to travel from Mangalwedha to Satara from time to time, I am inclined to exercise the discretionary powers of this Court under Section 24 of the Code of Civil Procedure and allow the application for transfer.

7. In view of the above, I allow the transfer Application as under:

“Transfer the Marriage Petition No. 130 of 2023 pending before Civil Judge Senior Division, at Wai to Civil Judge, Senior Division, Pandharpur and stay the proceedings pending transfer.”

8. The transfer may be effected within a period of 4 weeks and upon receipt of the papers and proceedings the Civil Judge, Senior Div Division, Pandharpur shall give notice to the parties, preferably within 3 weeks, to proceed with their respective matters.

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

(KAMAL KHATA, J.)