

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

MISCELLANEOUS CIVIL APPLICATION NO. 30 OF 2023

Poonam Omkar Palse	.. Applicant
v/s.	
Omkar Anil Palse	.. Respondent

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Mr. Atharva R. Bhingardev a/w. Mr. Yash Naik i/b. Vaibhav Gaikwad 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 from Civil Judge Senior Division, Panvel to Civil Judge Senior Division, Satara.

2. The Applicant and Respondent married on 3rd January 2016 at Satara. On 24th February 2018 out of the said wedlock a son was born. On 26.04.2019 applicant along with her son left the respondent's house and came to maternal house. On 6th November 2019 applicant lodged a complaint against respondent and his family members bearing CR. No. 309 of 2019 as well as applicant filed criminal misc. application no.12 of 2022 u/s. 12, 18, 19, 22 of Protection of Domestic Violence Act, 2005 before Chief Judicial Magistrate Class, Wai, Dist. Satara. The respondent on 13th

February 2020 had filed Divorce Petition No. 96 of 2020 under Sections 13(1)(ia) of the Hindu Marriage Act, 1995 before Civil Judge Senior Division, Panvel.

3. The learned counsel for the Applicant submitted that from 26th April, 2019 the Applicant is residing in her parents house at along with her son. The distance between Satara to Panvel 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 son and 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 Satara to Panvel 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 Petition No. 96 of 2022 pending before Civil Judge Senior Division at Panvel to Civil Judge, Senior Division, Satara 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 Division, Satara 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.)