

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

MISC. CIVIL APPLICATION NO. 20 OF 2023

Mrs. Priyanka Suhas More
v/s.

.. Applicant

Mr. Suhas Dattatray More

.. Respondent

...

Mr. Ashok M. Misal for the applicant.

...

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, for transfer Petition bearing P.A No.297 of 2022 filed by the Respondent husband from Family Court, Pune to Civil Judge, Senior Division, Barshi, District – Solapur.
2. The Applicant's case is that the marriage took place on 30th June, 2020 at Solapur. They have no children out of wedlock. On account of marital discord, the applicant is staying separately with her parents. On 1st April 2022, the Applicant filed proceedings under Section 9 of the Hindu Marriage Act, 1955 for Restitution of Conjugal Rights at

Barshi. On the other hand, the Respondent filed a petition for divorce at Family Court, Pune under Section 13 (1) (ia) bearing P.A No-297/2022.

3. Learned counsel for the applicant submits that the applicant is unable to travel as she has no source of income and she has not been paid any compensation so far by the respondent-husband. The distance between Barshi to Pune is around 250 kms., which would take 8 to 9 hours to and fro. It is further submitted that the applicant would need someone to accompany her during each court visit. On the other hand, the respondent is well placed as well as working in at Municipal Corporation at Pune and would not have any inconvenience to travel. He accordingly submits that the application be made absolute.
4. This Court on 24th March, 2023 issued notice to the respondent. Office remark indicates that the respondent is duly served through his father.
5. Despite service, the respondent has failed to appear either personally or through an advocate.
6. 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.

7. In the present case the balance of convenience tilts in favour of the applicant as she would suffer hardship, inconvenience and expense to travel as she would have to arrange and expend for the companion to travel with her on each date the Court requires her attendance. On the other hand there is no such handicap for the husband. His interest and convenience can be covered by an application to the court for a video conferencing facility if his presence is not absolutely necessary. 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 P.A No.- 297/2022 pending before Family Court, Pune be stayed

¹(2001) 10 SCC 41 : AIR 2002 SC 396

² 2022 SCC OnLine 1199

pending transfer; and be transferred to Civil Judge, Senior Division, Barshi, District: Solapur.

(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, Barshi, District- Solapur shall give notice to the parties, preferably within three weeks, to proceed with their respective matters.

(iv) Civil Judge, Senior Division, Barshi, Dist: Solapur may grant video conferencing facility to the respondent, in the event he applies for and if his physical presence is not absolutely necessary.

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

(KAMAL KHATA, J.)