

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

MISCELLANEOUS CIVIL APPLICATION NO. 35 OF 2022

Santa Vikas Joglekar	.. Applicant
v/s.	
Vikas Sadanand Joglekar	.. Respondent

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Ms. Yogini A. Ugale for the Applicant.

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CORAM : KAMAL KHATA, J.

DATED : 23RD 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 Hindu Marriage Petition for divorce filed by the husband from Family Court, Kolhapur to Family Court, Thane.

2. The Applicant and Respondent married on 4th May 2008 at Navi Mumbai. On 21st July 2012 a son was born out of wedlock. On account of marital discord, and on being subjected to domestic violence by the Respondent and his mother, Applicant filed FIR at Nerul Police Station Navi Mumbai and thereafter Criminal Complaint No. 67/DV/2019 under the provision of Protection of Women from Domestic Violence Act, before the Joint Magistrate First Class (JMFC) Navi Mumbai On account of continuation of the

domestic violence, the Applicant left for her parental home at Juinagar, Navi Mumbai. On the other hand, the Respondent filed a Marriage Petition before the Civil Judge Senior Division Kolhapur.

3. The learned counsel for the Applicant submitted that the Applicant as well as the Respondent are residing at Navi Mumbai and the Respondent has deliberately and with a malafide intention to harass the Applicant filed the Marriage Petition at Kolhapur. The distance from Navi Mumbai to Kolhapur is 355 kms and would take around 12 to 13 hours to and fro. It is submitted that the Applicant is a housewife and has no source of income. Besides she has to take care of their 11 year old son. 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 day. In view of the above, she 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 Navi Mumbai to
Kolhapur from time to time, I am inclined to exercise the discre-
tionary 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 Hindu Marriage Petition No.107 of 2020
pending before Family Court at Kolhapur to Family
Court, Thane 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 Family Court, Thane 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.)