

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

MISCELLANEOUS CIVIL APPLICATION NO. 135 OF 2023

Ashwini Nishant Gawande
v/s.

.. Applicant

Nishant Pramod Gawane

.. Respondent

...

Mr. Ravindra S. Pachundkar for the Applicant.

...

CORAM : KAMAL KHATA, J.

DATE : 21ST 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 Divorce Petition P.A. No. 703 of 2022 which is pending before the Ld. Family Court No. 2, Nagpur to Ld. Family Court, Pune, District : Pune.

2. The Applicant's case is that her marriage was solemnized on 30.03.2021 at Lonawala, Pune. They have no issues out of wedlock. The Applicant was forced out of the matrimonial home and is compelled to stay at her paternal home. The Respondent filed a Divorce Petition P.A. No. 703 of 2022 for divorce at Ld. Family Court No. 2, Nagpur under section (u/s) 13(1) (ia) of the

Hindu Marriage Act, 1955 without any reason.

3. The learned counsel for the Applicant submitted that the Applicant is residing at paternal home at Pune. She has no source of income and is totally dependent on her parents. The applicant is a woman and unable to travel alone. The father of the Applicant is 63 years old and retired person. Besides, she has no one to accompany her to Nagpur, each time she is required to remain present in Court. The distance from Pune to Nagpur is around 720 kms, would take considerable time and cause undue hardship and expense. On the other hand the Respondent is well placed in life. Consequently, 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 ***Sumita Singh v. Kumar Sanjay reported in (2001) 10 SCC 41 : AIR 2002 SC 396*** and ***N.C.V. Aishwarya v. A. S. Saravana Karthik Sha reported in 2022 SCC OnLine 1199*** 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 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 not only will the Applicant have suffer undue hardship herself but also have considerable inconvenience to travel with some companion besides traveling alone or with aged parent would cause tremendous inconvenience and hardship. Consequently, 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 follows:

- i. The proceedings and application made in Divorce Petition P.A. No. 703 of 2022 pending before the Ld. Family Court No. 2, Nagpur be stayed pending transfer; and be transferred to the Ld. Family Court, Pune, District : Pune.
- ii. The Registry shall forward a copy of this order to the Ld. Family Court No. 2, Nagpur with instructions to forthwith transmit all the records of Divorce Petition P.A. No. 703 of 2022 between the Respondent and Applicant to the Ld. Family Court, Pune, District : Pune. preferably within 4

weeks from the receipt of this order.

iii. The Ld. Family Court, Pune, District : Pune shall on receipt of the records of Divorce Petition P.A. No. 703 of 2022, fix a date preferably within 3 weeks and issue notice to the parties for proceeding with the matter.

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

(KAMAL KHATA, J.)