

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

MISCELLANEOUS CIVIL APPLICATION NO. 215 OF 2022

Mrs. Vaishali Vishal Suryawanshi @ Vaishali Surendra Shinde v/s. Vishal Pralhad Suryawanshi	.. Applicant .. Respondent
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Mr.Arya Sapre i/b. Abhishek Sathe for the applicant.

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CORAM : KAMAL KHATA, J.

DATED : 17TH JULY 2023.

P.C. :

1. This miscellaneous civil application under section 24 of the code of civil procedure 1908, is for transfer of Marriage Petition no.54/2021 from Civil Judge, Senior Division at Udgir to Family Court at Bandra, Mumbai.

2. The applicant's case is that the marriage took place at Latur on 11th June 2015. Out of wedlock, the applicant gave birth to a girl child on 30th May 2016. On account of marital discord, since 3rd November 2018, the applicant is staying separately with her parents. The respondent filed a

Marriage Petition No.54 of 2021 for divorce against the applicant with Civil Judge, Senior Division at Udgir, Latur.

3. Learned counsel for the applicant submits that the applicant is unable to travel as she has no source of income and is dependent upon her parents for her livelihood. It is submitted that the applicant has to face great hardship to travel to Udgir, Latur from Mumbai with her or without the minor child. The applicant also does not know anyone except the respondent at Udgir, and therefore, they have to find someone to accompany her each time to attend court on a given court date. It is submitted that the travelling cost ranges between Rs.3200/- to Rs.7000/- which is unaffordable in the present circumstance. On the other hand, the respondent is employed as a Sub-Inspector of Police and posted presently at Kundalwadi, Taluka Biloli, District Nanded and can afford to travel to the Family Court at Bandra, Mumbai. He accordingly submits that the application be made absolute.

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 view of the above, I find merit in the submission of the applicant. It would cause the applicant tremendous hardship to travel with or without the minor child even if accompanied by a companion assuming the costs of travel are also paid which presently are not even offered. I am inclined to allow this application and pass the following order;

(i) Application is allowed in terms of prayer clause (A).

(ii) The proceedings and application made in M.P. No.54/2021 pending before the Civil Judge, Senior Division at Udgir, Latur be stayed pending transfer; and be transferred to Family Court at Bandra, Mumbai.

(iii) The Registry may forward a copy of this order to the Civil Judge, Senior Division at Udgir, Latur, with instructions

to forthwith transmit all the records of M.P No.54/2021 between the Respondent and Applicant to the Family Court at Bandra, Mumbai, preferably within 4 weeks from the receipt of this order.

(iv) The Family Court at Bandra, Mumbai, on receipt of the records of M.P. No.54/2021, may fix a date preferably within 3 weeks and issue notice to the parties for proceeding with the matter.

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

(KAMAL KHATA, J.)