

SA Pathan

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

MISCELLANEOUS CIVIL APPLICATION NO.256 OF 2022

Melissa Monteiro	... Applicant
V/s.	
Eshville Fernandes	... Respondent

Ms. Tanaya Patankar for the Applicant.

Mr. Jitendra Sheth for the Respondent.

CORAM : AMIT BORKAR, J.

DATED : FEBRUARY 16, 2023

P.C.:

1. The wife has filed the present Application seeking transfer of the proceedings pending before the Additional Civil Judge Senior Division and JMFC, Margaon, Goa to the Family Court, Bandra, Mumbai.

2. The marriage between the Applicant and the Respondent took place on 13th October, 2020. Due to matrimonial differences between the parties, the parties started living separately. The Respondent was filed Marriage Petition No. 8 of 2021 in the Court of Additional Civil Judge Senior Division and JMFC, Margao, Goa for declaring marriage null and void. The Applicant has also filed the Marriage Petition No.A/1295 of 2022 under Section 32 of the Divorce Act, 1869 for restitution of conjugal rights before the

Family Court, Bandra, Mumbai.

3. The Applicant has, therefore, filed the present Application seeking transfer of the proceedings from the Court at Margao, Goa to the Family Court, Bandra, Mumbai.

4. On notice being issued by this Court, the opponent has filed reply contesting the Application. The Respondent-husband has opposed to transfer the proceedings mainly on the ground that mother of the Respondent is suffering from cancer, which requires him to attend to his mother. Since, marriage took place and the parties are residing in Goa, inconvenience cannot be caused to the wife. There is no threat to the life of Applicant-wife, if she attends the Court in Goa.

5. Having considered the submissions made on behalf of both sides, in my opinion, the Applicant has made out the case for transfer. The Applicant has stated in her Application on oath that the distances from Goa to Mumbai is around 650 k.m. which takes 12 to 14 hours for journey by bus and/or train. It is further stated that the father of Applicant is suffering from chronic ailments like hypertension, diabetes, chronic renal failure and coronary artery disease for which requires to constant intensive monitoring. It is also stated, due to fall of Applicant's father he has injured his back and his movements are restricted, which requires Applicant's assistance.

6. Having considered reasons stated above, in my opinion, the Applicant has made out a case for transfer, as considering aforesaid

factors, it would be inconvenient for the wife to travel to Goa from Mumbai. Hence, the following order:

- i. The Miscellaneous Civil Application is allowed in terms of prayer clause (a).

(AMIT BORKAR, J.)