

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

MISCELLANEOUS CIVIL APPLICATION NO. 59 OF 2021

Sau. Pratiksha Arjun Bagul
cant

.. Appli-

v/s.
Arjun Shivaji Bagul
dent

.. Respon-

...

Mr. Himanshu Pujari i/b. Mahendra N. Sandhyanshiv for the appli-
cant.

...

CORAM : KAMAL KHATA, J.

DATED : 6TH JULY 2023.

P.C. :

1. This Miscellaneous Civil Application is filed by the Applicant wife for transfer of Marriage Petition no.235/2018 under Section 24 of the Civil Procedure Code 1908, filed by the Respondent husband from Civil Judge, Senior Division, Aurangabad to Civil Judge, Senior Division, Malegaon, District Nashik.
2. The Applicant's case is that, the marriage took place on 3rd March 2018. On account of marital discord, the applicant is staying separately with her parents. On 4th November 2019, the applicant filed the Criminal Misc. Application

no.2300/2019 before the Judicial Magistrate First Class at Malegaon, District Nashik for maintenance. On 19th December 2019, the applicant filed application under Section 13(1) of Hindu Marriage Act for divorce before the Civil Judge, Senior Division at Malegaon, District Nashik. On 26th February 2020, the applicant filed an application bearing R.C.S. no.64/2020 under Section 18 of the Hindu Adoptions and Maintenance Act before the Civil Judge, Junior Division at Malegaon.

3. On the other hand, the respondent has filed the application bearing HMP no.235 /2018 before the Civil Judge, Senior Division, Aurangabad under Section 13(1), 13(i-a) and 13(i-b) of Hindu Marriage Act, 1995 for divorce.
4. Learned counsel for the applicant submits that the applicant left the matrimonial home on 23rd March 2018 and since been residing with her parents. The respondent has not paid any alimony or maintenance so far. The distance between Malegaon to Aurangabad is 130 kms and would take around 6 to 8 hours to travel to and fro. Since the applicant has no relatives in Aurangabad, she would have to take someone to accompany her on each court date. It would be inconvenient

and also expensive for her to travel on each date. Further she has no source of income.

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. In view of the above, I am inclined to allow this application and pass the following order;

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

(ii) The proceedings and application made in M.P. No.235/2018 pending before the Civil Judge, Senior Division at Aurangabad be stayed pending transfer; and be transferred to Civil Judge, Senior Division, Malegaon, District Nashik.

(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, Malegaon, shall give notice to the parties, preferably within three weeks, to proceed with their respective matters.

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

(KAMAL KHATA, J.)