

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

MISCELLANEOUS CIVIL APPLICATION NO. 107 OF 2023

Priyanka Umesh Sonar.	... Applicant
v/s.	
Umesh Ashok Sonar.	.. Respondent.

...

Mr. Prashant Darandale, for the Applicant.

Mr. Sushant Prabhune , for the respondent.

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CORAM : KAMAL KHATA, J.

DATED : 13TH JULY 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 Marriage Petition (M.P.) No. 199 of 2022 which is pending before the Jt. Civil Judge Senior Division, Baramati to Principal Judge, Family Court at Pune.

2. The Applicant's case is that her marriage was solemnized on 19/5/2014 at Ahmednagar. On 18/9/2015 a daughter was born out of wedlock. Due to matrimonial differences, the applicant left the matrimonial house on 28/1/2018 and started residing separately. The applicant filed a police complaint on 9/2/2018. The

respondent has filed a Hindu Marriage Petition No. 199/2022 on 30/3/2022 before Jt. Civil Judge(S.D.), Baramati (CJSD), under section 13, (1) (ia) & (ib) of Hindu Marriage Act 1955.

3. The learned Counsel for the applicant submits that the Applicant has to look after her minor daughter and cannot leave the child with anyone or take the child along with her on each date of hearing. It is submitted that either way it would cause tremendous hardship, inconvenience and expense. On the other hand, the respondent is well placed and resides at Pune.

4. The learned Counsel for the respondent states that the present application is nothing else but dilatory tactics. The trial is at an advanced stage and issues have been framed by the Jt. CJSD at Baramati. Learned counsel for the respondent states that the applicant has appeared for five hearings in the marriage petition and this application is filed at a belated stage.

5. The learned Counsel for the respondent states that as regards medical condition of the applicant, she has made a false statement, inasmuch as, it appears that the applicant has been travelling in the past couple of years at various places. He submits that the distance between Pune to Baramati can easily be accessed in two hours and hence, it would not cause any hardship or inconvenience to the applicant to travel. It is stated that the

applicant had abandoned the house voluntarily 5 years ago and the respondent had waited before filing the application for divorce.

6. 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*** is 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.

7. 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 to suffer undue hardship herself but also have considerable inconvenience to travel with some companion besides travelling with or without her daughter would cause tremendous inconvenience, hardship and expense. Consequently, I am inclined to allow the application for transfer.

8. In view of the above I allow the transfer Application as follows:

- i. The proceedings and application made in M.P. No. 199

of 2022 pending before the Jt. Civil Judge Senior Division, Baramati be stayed pending transfer; and be transferred to the Principal Judge, Family Court, Pune.

ii. The Registry shall forward a copy of this order to the Jt. Civil Judge Senior Division, Baramati, with instructions to forthwith transmit all the records of M.P No. 199 of 2022 between the Respondent and Applicant to the Principal Judge, Family Court, Pune preferably within 4 weeks from the receipt of this order.

iii. The Principal Judge, Family Court, Pune shall on receipt of the records of M.P. No. 199 of 2022, fix a date preferably within 3 weeks and issue notice to the parties for proceeding with the matter.

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

(KAMAL KHATA, J.)