

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

MISCELLANEOUS CIVIL APPLICATION NO. 100 OF 2023

Kavita Chandrakant Jundale. ... Applicant

v/s.

Chandrakant Revanna Jundale. ... Respondent

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Ms. Tanvi Tapkire, for the Applicant.

Mr. Amit A. Karande, for Respondent.

...

CORAM : KAMAL KHATA, J.

DATED : 18TH JULY 2023.

P.C. :

1. Learned Counsel for the applicant prays and is granted liberty to amend the application to delete State of Maharashtra as party respondent. Amendment be carried out forthwith, in any event before the end of the day.

2. 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. 21 of 2016, which is pending before the Civil Judge Senior Division, Pandharpur to Family Court, Sangli.

3. The Applicant's case is that her marriage was solemnized on 11th May, 2014 at Sangli. They have no issues out of wedlock. Due

to matrimonial differences, the applicant left the matrimonial home on 23rd September, 2014. The applicant is therefore residing with her parents at Sangli. The Respondent filed Hindu Marriage Petition No. 21 of 2016 on 28/1/2016 before the Civil Judge Senior Division, Pandharpur. On the other hand, the applicant filed Criminal Miscellaneous Application No. 129 of 2016 before the Judicial Magistrate First Class, Sangli under the Protection of Women from Domestic Violence Act, 2005 against the respondent and his family members. On 6th January, 2017 Applicant also filed a Petition under Section 9 of the Hindu Marriage Act, 1955 for restitution of conjugal rights before the Ld. CJSD, Sangli bearing Marriage Petition No.18 of 2017. Thereafter, after the establishment of Family Court in Sangli, the Marriage Petition No.18 of 2017 was transferred to the Family Court, Sangli and was renumbered as Petition A No.49 of 2020.

4. The learned counsel for the applicant submits that she has no independent source of income and she is compelled to stay with her aged parents who have to look after her livelihood. The distance between the Pandharpur and Sangli is at around 140 kms. It is submitted that the husband is into dairy business and is well-placed.

5. On the other hand, the learned Counsel for the respondent

submitted that they are willing to pay transportation charges from Pandharpur to Sangli, it being a national highway is not so difficult as made out by the applicant. It is also submitted that the proceedings before the Pandharpur Court are at an advanced stage and the applicant's cross has to be commenced and completed.

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 this case, if the case is transferred it would be easier for the applicant-wife to attend the court and complete the proceedings at an earlier date. This would be in the interest of both parties. Moreover, no prejudice would be caused to the respondent.

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

- i. The application is allowed in terms of prayer clause (a).
- ii. The proceedings and applications made in M.P. No.21/2016 pending before the Civil Judge Senior Division, at Pandharpur be stayed pending transfer; and be transferred to the Family Court, Sangli.
- iii. The Registry shall forward a copy of this order to the Civil Judge Senior Division, at Pandharpur with instructions to forthwith transmit all the records of M.P. No.21/2016 between the Respondent and Applicant to the Family Court, Sangli, preferably within 4 weeks from the receipt of this order.
- iv. The Family Court, Sangli shall on receipt of the records of M.P. No. 21/2016, fix a date preferably within 3 weeks and issue notice to the parties for proceeding with the matter.

Later on:

9. I am informed that on account of some technical issue in the Registry the application could not be amended. In view thereof, time to amend the application is extended upto 24th July, 2023.
10. All concerned to act on the authenticated copy of this order.

(KAMAL KHATA, J.)