

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
MISCELLANEOUS CIVIL APPLICATION NO.300 OF 2022**

RAMA DINESH LAHOTI

)...APPLICANT

V/s.

DINESH HARIKISHAN LAHOTI

)...RESPONDENT

Mr. Makrand M. Kale, Advocate for the Applicant.

None for the Respondent.

CORAM : ABHAY AHUJA, J.

DATE : 13th SEPTEMBER 2023

PC. :

1. This is an Application filed by the Applicant-wife seeking transfer of Marriage Petition No.1504 of 2021 filed by the Respondent-husband for divorce before the Civil Judge Senior Division, Pune to the Family Court at Sangli.

2. Mr.Makrand Kale, learned Counsel for the Applicant-wife would submit that inspite of service of notice, the Respondent-husband has not been remaining present, although he has appointed an Advocate for another proceeding challenging the Domestic Violence Court order before another Bench of this Court. Learned Counsel would submit

that the stage at which the proceedings before the Pune Court was stayed, was for filing of written statement.

3. Mr.Kale, learned Counsel for the Applicant, referring to the background of the matter, would submit that the Applicant and the Respondent were married on 11th February 2017 at Sangli. However, soon thereafter, the Respondent-husband and his mother and father started ill-treating her and also assaulted her. Thereafter, the Applicant-wife called her brother and requested him to take her away. Again, in the month of June 2017, the Applicant-wife was assaulted. Therefore, in July 2017, the Applicant-wife returned to her parental home at Sangli. Learned Counsel would submit that the Applicant-wife does not have any source of income although she is an Advocate. That, due to the mental and physical harassment, she is unable to practice properly. Learned Counsel would submit that the Applicant-wife had also filed an Application for protection and maintenance under the Protection of Women from Domestic Violence Act, 2005 and is receiving a maintenance of Rs.7,000/-. Learned Counsel would submit that although the Respondent-husband is well to do, he is still in arrears for non-payment of the maintenance. Learned Counsel would submit that the distance between Sangli and Pune is about 250

kilometers one way and the Applicant-wife does not have any relatives in Pune with whom she can stay when she visits Pune for attending to the matter. He submits that, on the other hand, the Respondent-husband, who has remained absent in this matter, is an Engineer and doing job in Infosys Company, earning a monthly salary of Rs.95,000/-, besides having a cloth shop at Village Dhamangaon, District Amravati. Learned Counsel would submit that, therefore, while it does not appear that the transfer would be inconvenient to the Respondent but as mentioned above it would be inconvenient for the wife to travel to Pune and this Court therefore be pleased to transfer the Divorce Petition filed by the Respondent-husband to Sangli Family Court.

4. I have heard Mr. Makrand M. Kale, learned Counsel for the Applicant. The Respondent-husband is neither present nor is represented.

5. It is a settled law that in matters of this nature, the convenience of the wife has to be given preference. The Hon'ble Supreme Court in the case of **N.C.V. Aishwarya Vs. A.S. Saravana Karthik Sha**¹ has highlighted this very aspect considering the Indian socio-economic

¹ SCC Online SC 1199 (2022)

paradigm. Paragraph No. 9 of the said decision is usefully quoted as under :-

“9. The cardinal principle for exercise of power under Section 24 of the Code of Civil Procedure is that the ends of justice should demand the transfer of the suit, appeal or other proceeding. In matrimonial matters, wherever Courts are called upon to consider the plea of transfer, the Courts have to take into consideration the economic soundness of both the parties, the social strata of the spouses and their behavioral pattern, their standard of life prior to the marriage and subsequent thereto and the circumstances of both the parties in eking out their livelihood and under whose protective umbrella they are seeking their sustenance to like. Given the prevailing socio-economic paradigm in the Indian society, generally, it is the wife’s convenience which must be looked at while considering transfer.”

(Emphasis Supplied)

6. This is a case where the Applicant-wife is staying in Sangli which is around 250 kilometers one way. It has been submitted that she has no place to stay in Pune, if she has to attend the matter, besides not having any source of income. And although maintenance has been ordered in the Domestic Violence proceedings, there are arrears of maintenance. The Respondent-husband, as noted above, though served has chosen to remain absent/not represented. The submissions of the Applicant remain unchallenged. In this view of the matter, this Court is

inclined to allow the Application. Let the Divorce proceedings pending in Pune Court be transferred to the Family Court at Sangli.

7. The Application is allowed in terms of Prayer Clause (a), which reads thus :

(a) That the proceedings of Marriage Petition No.1504 of 2021 Before 11th Joint Civil Judge Senior Division & Chief Judicial Magistrate Pune City Pune, may be transferred to the Family Court, Sangli having jurisdiction to try and entertain the matter.

8. It is made clear that any observations on the merits of the dispute between the parties is only to consider this application which shall not influence the trial or disposal of the Marriage Petition which is to be tried and decided on its own merits uninfluenced by the said observations.

(ABHAY AHUJA, J.)