

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

MISCELLANEOUS CIVIL APPLICATION NO. 127 OF 2023

Sou. Aishwarya Ashutosh Sale	... Applicant
v/s.	
Ashutosh Shivaji Sale	... Respondent

...

Mr. Anand S. Shalgaonkar for the Applicant.
None for the Respondent.

...

CORAM : KAMAL KHATA, J.

DATED : 8TH AUGUST 2023.

P.C. :

1. This Miscellaneous Civil Application is filed by the Applicant wife under section 24 of the Civil Procedure Code 1908, for transfer of Marriage Petition no.408 of 2022 filed by the Respondent husband from Civil Judge, Senior Division, Pandharpur, District: Solapur to Civil Judge, Senior Division, Khed, Tal. Khed Rajgurunagar, District: Pune.

2. The Applicant's case is that the marriage took place on 10th December 2017 at Pune. On 28th September, 2022 on account of marital discord, applicant was evicted from the matrimonial home. On 28th December, 2022 the Applicant filed proceedings under Sections 12, 18, 19 and 20 of the Domestic Violence Act, 2005 at Judicial Magistrate First Class, Junnar bearing Criminal Case No. 723 of 2022. On the other hand, the Respondent filed a

petition for divorce at Pandharpur under Section 13 (a)(i) bearing Hindu Marriage Petition no.408/2022.

3. Learned counsel for the applicant submits that the distance between Solapur to Pandharpur is around 255 kms., which would take 4 to 5 hours for a single journey. He further submitted that it would be extremely difficult for the applicant to travel to Pandharpur as she would have to expend money when she is financially dependent on her family for her livelihood. Thus her travel from Solapur to Pune on each date the court requires her to attend will cause her tremendous inconvenience, hardship and expense. He accordingly submits that the application be made absolute.

4. 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***¹ and ***N.C.V. Aishwarya v. A. S. Saravana Karthik Sha***² 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.

5. The Respondent has failed to appear though served.

6. In the facts and circumstances narrated above, I am inclined to allow this application and pass the following order;

1 (2001) 10 SCC 41 : AIR 2002 SC 396

2 2022 SCC OnLine 1199

- (i) Application is allowed in terms of prayer clause (b).
- (ii) The proceedings and application made in H.M.P. No.408 of 2022 pending before Civil Judge, Senior Division, Pandharpur, District: Solapur be stayed pending transfer; and be transferred to Civil Judge, Senior Division, Khed, Tal. Khed Rajgurunagar, District: Pune.
- (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, Khed, Tal. Khed Rajgurunagar, District: Pune shall give notice to the parties, preferably within three weeks, to proceed with their respective matters.
- (iv) Civil Judge, Senior Division at Pune may grant video conferencing facility to the respondent if he applied for and if his physical presence is not absolutely necessary.
- (v) All concerned to act on the authenticated copy of this order.

(KAMAL KHATA, J.)