

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

MISCELLANEOUS CIVIL APPLICATION NO. 137 OF 2023

Mrs. Reshma Rushikesh Shinge Alias Reshma Dattaray Palkar v/s. Rushikesh Sudhir Shinge	.. Applicant .. Respondent
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Mr. Rohit P. Mahadik for the Applicant.
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CORAM : KAMAL KHATA, J.

DATED : 23RD JUNE 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 Hindu Marriage Petition filed by the husband from Civil Judge Senior Division, Kolhapur to Civil Judge Senior Division, Panvel.

2. The Applicant and Respondent married on 26th December 2018. On account of the Applicant being subjected to domestic violence by the Respondent, Applicant filed a domestic violence case bearing no. 242 of 2020 at Family Court at Pune. On account of continuation of the domestic violence, the Applicant left for her matrimonial home in or around 2020. On the other hand, the Respondent filed a Marriage Petition under section 9 for

restitution under the Hindu Marriage Act bearing No. 01 of 2023 before the Civil Judge Senior Division Kolhapur.

3. The learned counsel for the Applicant submitted that the Applicant is residing at her parental home at Karjat. The distance from Karjat to Kolhapur is 327 kms and would take around 18 hours to and fro. The Respondent has failed to support the Applicant financially. It is submitted that the Respondent is very influential and is apprehensive of her well being. She would therefore have to take a companion for each date that she is required to attend in Court which would cause undue hardship and expense not only for herself but also for the companion. In view of the above, he submitted that the transfer Application be allowed.

4. None appeared for the Respondent though served.

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 : - (i) ***Sumita Singh v. Kumar Sanjay reported in (2001) 10 SCC 41 : AIR 2002 SC 396***, (ii) ***Soma Choudhary v/s Gourab Choudhury (2004) 13 SCC 462***, (iii) ***Rajani K Pardeshi v/s Kishor B Pardeshi (2005) 12 SCC 237***,

(iv) *Anjali A Sadhwani v/s Ashok K Sadhwani AIR 2009 SC 1374* and (v) *N.C.V. Aishwarya v. A.S. Saravana Karthik Sha reported in 2022 SCC OnLine 1199* is that the convenience of the woman that has to be looked into, while considering the transfer of a case from one Court to another.

6. 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 the applicant will suffer undue hardship and expense to travel from Karjat to Kolhapur from time to time alongwith a companion, I am inclined to exercise the discretionary powers of this Court under Section 24 of the Code of Civil Procedure and allow the application for transfer.

7. In view of the above I allow the transfer Application as under:

“Transfer the Hindu Marriage Petition No. 01 of 2023 under section 9 of the Hindu Marriage Act, 1955 pending before Civil Judge Senior Division at Kolhapur to Civil Judge Senior Division at Panvel and stay the proceedings pending transfer.”

8. The transfer may be effected within a period of 4 weeks and upon receipt of the papers and proceedings the Civil Judge Senior Division at Panvel shall give notice to the parties, preferably within 3 weeks, to proceed with their respective matters.

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

(KAMAL KHATA, J.)