

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

**MISCELLANEOUS CIVIL APPLICATION NO. 138 OF 2023**

|                              |               |
|------------------------------|---------------|
| Mrs. Neeta Pravin Bhosale    | .. Applicant  |
| v/s.                         |               |
| Mr. Pravin Pandurang Bhosale | .. Respondent |

...

Mr. B. S. Nayak, Mrs. Sulakshana Survase for the applicant.  
Ms. Isha S. Punalikar for the respondent.

...

**CORAM : KAMAL KHATA, J.**

**DATED : 10<sup>th</sup> 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 Divorce Petition No. A/196/2021 filed by the Respondent husband from Family Court, Sangli to Family Court, Bandra, Mumbai.
2. The Applicant's case is that the marriage took place on 22<sup>nd</sup> November, 2017 at Mumbai. They have no issues out of wedlock. On account of marital discord, the applicant is staying separately with her parents. On 30<sup>th</sup> October, 2021 the Applicant filed Domestic Violence proceeding bearing No.

DV/395/2012 before the Metropolitan Magistrate at Borivali, Mumbai. On the other hand the respondent filed a divorce petition at Family Court, Sangli.

3. Learned counsel for the applicant submits that the applicant-wife though a graduate is unemployed. Her livelihood is dependent on her aged father who is about 65 years old. She is living with her three sisters and a brother. This application for transfer is sought as she is unable to travel as the distance between Mumbai to Sangli is around 390 kms., and would take 7 to 8 hours to and fro. She has no relatives at Sangli and cannot stay back if the need arises. She can't afford it. On the other hand, the respondent is well placed and would not have any inconvenience to travel. He accordingly submits that the application be made absolute.

4. Learned counsel for the respondent submits that the respondent has been paying interim maintenance of Rs. 6,000/- per month as well as travel charges to his applicant-wife for each date when she attended the Court at Sangli. It is submitted that it will cause grave hardship and inconvenience to the respondent who is a soldier to travel to Bandra for each court date. He submitted that a soldier gets 60 days annual leave and 20 days casual leave to

re-energise/rejuvenate themselves. During those limited days if he had to travel to Mumbai from Sangli to attend court dates would cause tremendous inconvenience to him. Learned counsel further submitted the proceedings are at an advanced stage at Sangli and therefore it would be appropriate if this application is rejected.

5. Learned counsel relies upon the judgment in the case of **Abhilasha Gupta Vs. Harimohan Gupta** to submit that mere distance of travel should not be a ground for transfer. He further submitted that in the said case the Apex Court had rejected the transfer also on account of the advanced stage of the proceedings. In view of the judgment he prays for rejection of the transfer application.

6. In my view, the balance of convenience tilts in favour of the wife in the facts of this case. It appears that the wife had to leave the matrimonial home on account of domestic violence. On account of her raising a complaint a divorce was applied for by the respondent. The Applicant was forced to go back to her parental home. It would not only cause inconvenience to the wife but would cause her mental trauma to visit Sangli. In my view the proceedings which are at an advanced stage if transferred would be concluded as the applicant would be

able to pursue it regularly. The respondent's travel inconvenience can be tackled if the Family Court Bandra is directed to grant video conferencing facility to the respondent to attend if his physical presence is not absolutely necessary.

7. In this case, both the parties are seeking a divorce. The wife's regular attendance in court would expedite the adjudication of divorce by the court at an early date.

8. In view of the above, I am inclined to allow this application and pass the following order;

(i) Application is allowed in terms of prayer clauses (a).

(ii) The proceedings and application made in Divorce Petition No. A/196/2021 pending before Family Court, Sangli to be stayed pending transfer; and be transferred to Family Court, Bandra, Mumbai.

(iii) The transfer may be effected within a period of four weeks and upon receipt of the papers and proceedings the Family Court, Bandra, Mumbai, shall give notice to the parties, preferably within three weeks, to proceed with their respective matters.

(iv) Family Court, Bandra, Mumbai, may grant video conferencing facility to the respondent if 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.)**