

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

MISCELLANEOUS CIVIL APPLICATION NO. 122 OF 2023

Sou. Apurva Rohit Bhumkar
v/s.

.. Applicant

Rohit Tushar Bhumkar

.. Respondent

...

Mr. Balasaheb G. Ligade for the applicant.

Mr. Tanaji Mhatugade for the respondent.

...

CORAM : KAMAL KHATA, J.

DATED : 22ND JUNE 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.213/2022 filed by the Respondent husband from Family Court, Kolhapur to Civil Judge, Senior Division, Pandharpur.
2. The Applicant's case is that the marriage took place on 3rd December 2014 at Kolhapur. They have no issues out of wedlock. On account of marital discord, the applicant is staying separately with her parents. The father of the Applicant has expired. On 30th March 2022, the Applicant

filed proceedings under Section 9 of the Hindu Marriage Act, 1955 for Restitution of Conjugal Rights at Pandharpur. On the other hand, the Respondent filed a petition for divorce at Kolhapur under Section 13 (1) bearing Marriage Petition no.213/2022. On 18th June 2022, Domestic Violence case no.892 of 2022 was filed at Pandharpur.

3. Learned counsel for the applicant submits that the applicant has been assaulted on occasions when she was visited at Kolhapur and therefore apprehends her safety whilst attending the Court. Learned counsel for the applicant submits that the applicant is unable to travel as she has no source of income and she has not been paid any compensation so far by the respondent-husband. The distance between Kolhapur to Pandharpur is around 190 kms., which would take 7 to 8 hours to and fro. 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. 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* 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. 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) and (b).

(ii) The proceedings and application made in M.P. No.213/2022 pending before Family Court, Kolhapur be stayed pending transfer; and be transferred to Civil Judge, Senior Division, Pandharpur.

(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, Pandharpur, shall give notice to the parties, preferably within three weeks, to proceed with their respective matters.

(v) All concerned to act on the authenticated copy of this order.

(KAMAL KHATA, J.)