

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

MISCELLANEOUS CIVIL APPLICATION NO. 282 OF 2022

Mrs. Hem Sandipt Dhage

.. Applicant

v/s.

Mr. Sandeep Dattatray Dhage

.. Respondent

...

Ms. Neha Sharma a/.w Mr. Rahul Shelke for the Applicant.

...

CORAM : KAMAL KHATA, J.

DATED : 7TH 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 M.P. No. A/1904 of 2021 which is pending before the Family Court No. 4, Pune to Family Court, Thane.

2. The Applicant's case is that after her marriage on 26th November 2016 at Pune, during her stay at her matrimonial home, she was subjected to various acts of Domestic Violence by the Respondent and consequently filed a Case being No. 371/DV of 2021 before the 2nd Joint Civil Judge, Junior Division JMFC, Thane against the Respondent and his family on 7th September 2021. She has also filed Petition No. 494 of 2021 for dissolution of marriage under section 13 (1)(ia)(ib) of the Hindu Marriage Act,

1955 at Family Court, Thane. It is stated that they have been residing separately since 12th March 2019. It is stated that the Respondent had filed a Marriage Petition No. 1904 /2021 before the Family Court No. 4 at Pune which is pending.

3. The learned counsel for the Applicant submitted that the Applicant is residing at paternal home at Thane. She is unable to travel as she has no source of income and that apart, she bears the responsibility of her three year old son and an aged mother. Besides travel from Pune to Thane, which is around 147.4 kms, would take considerable time, which would cause undue hardship and expense. Consequently, 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 ***Smita 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 SC 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.

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 not only will the Applicant have suffer undue hardship herself but also have considerable inconvenience to either travel with the child or leave the child in the custody of her aged mother for a long duration of time each time she that she would be required to attend Court. Consequently, 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 follows:

- i. The proceeding being M.P. No. A/1904 of 2021 pending before the Family Court No. 4 at Pune be stayed pending transfer; and be transferred to the Family Court at Thane.
- ii. The Registry shall forward a copy of this order to the Family Court No. 4 Pune, with instructions to forthwith transmit the records of M.P No. A/1904 of 2021 between the Respondent and Applicant to the Family Court Thane preferably within 4 weeks from the receipt of this order.

iii. The Family Court, Thane shall on receipt of the records of M.P. No. A/1904 of 2021, fix a date preferably within 3 weeks and issue notice to the parties for proceeding with the matter.

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

(KAMAL KHATA, J.)