

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

MISCELLANEOUS CIVIL APPLICATION NO. 229 OF 2022

Mrs. Priti Arun Bisht	.. Applicant
v/s.	
Arun Dheerajsingh Bisht	.. Respondent

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Mr. Suraj L. Dube for the Applicant.

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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 to transfer Marriage Petition filed by the husband from Joint Civil Judge Senior Division & A.C.J.M at Palghar to Family Court, Bandra.

2. The Applicant and Respondent married on 8th March 2019 at Kandivali Mumbai. On 19th January 2022 the Applicant was subjected to domestic violence by the Respondent and her mother in law. The Applicant filed a domestic violence case under section 12 read with (r.w.) sections 17-20, 22 & 23 of the Protection of Women From Domestic Violence Act, 2005 bearing no. 1700026 of 2022. The mediation has failed on account of the Respondent

remaining absent. On the other hand, the Respondent filed a Marriage Petition u/s 9 of the Hindu Marriage Act bearing No. 81 of 2022 before the Joint Civil Judge Senior Division and A.C.Judicial Magistrate at Palghar on 22nd April, 2022.

3. The learned counsel for the Applicant submitted that the Applicant is residing at paternal home at Kandivali East Mumbai and has no source of income as unemployed. She is totally dependent on her old parents and younger siblings for her daily requirement and expenses. Besides, the Applicant is unable to travel to Palghar each time she is required to attend the Court at Palghar. Besides travel from Mumbai to Palghar, which is around 103 kms, would take around 4 hours to and fro, which would cause undue hardship and expense. On the other hand the Respondent is well placed in life. In view of the above, he submitted that the transfer Application be allowed.

4. No one 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 it she will suffer
undue hardship and expense to travel from Mumbai to Palghar
from time to time, 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 in terms
of prayer (a):

“To Transfer the Hindu Marriage Petition No. 81 of
2022 pending in JCJSD & ACJM at Palghar to Family
Court at Bandra Mumbai 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 Family Court at Bandra shall given 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.)