

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

MISCELLANEOUS CIVIL APPLICATION NO. 193 OF 2023

Priyanka Nishikant Karale	.. Applicant
v/s.	
Nishikant Kondubabu Karale	.. Respondent

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Mr. Nilesh Wable for the Applicant.

Mr. G. J. Jain for the Respondent.

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CORAM : KAMAL KHATA, J.

DATED : 24TH JULY 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 H.M.P. no.A-51/2022 filed by the Respondent husband from Family Court at Thane to Civil Judge, Senior Division, Pune.
2. The Applicant's case is that the marriage took place on 31st March, 2019 at Ahmednagar. On account of marital discord, the applicant resides with her parents at Shirur, Pune. On 6th January 2022, HMP No.A-51/2022 divorce petition was filed at Thane by the Respondent.

3. Learned counsel for the applicant submits that the distance between Shirur to Thane would be around 206 kms. Learned counsel submits that the father of applicant is suffering from some age related issues and she has to travel with her cousin and also applicant has no independent source of income. The applicant has to start at 5:00 a.m. in the morning to reach the court. On the other hand, respondent is a is well placed and engineer working in TCS company. In view of the above, learned counsel for the applicant submits that the application be made absolute.
4. Learned counsel for the respondent, on the other hand, submitted that the applicant had appeared in the Thane Court at least on four occasions. It is stated that it was only after no written statement order that was passed on 11th April, 2023 that this application for transfer was sought. Learned counsel for the respondent further submits that the applicant had voluntarily decided to desert him and accordingly had called upon her to grant him divorce. It is stated that no response has been received from the applicant till date. It is submitted that the cousin of the applicant is a lawyer who appears for her in the Thane Court and does not require anyone to accompany her. He further submits that the applicant's relatives had threatened the respondent and

NC to that effect was filed on 4th January 2022 with the Manpada Police Station, Thane. He relied upon the judgment in the case of ***Amruta Akshay Nikte v/s. Akshay Anilkumar Nikte***¹ to submit that the transfer cannot be sought as a matter of right. Learned counsel further submits that he is willing to pay Rs.10,000/- per trip on each court date the Applicant is required to attend.

5. In my view, this is not a case where transfer is required to be granted. The balance of convenience is in favour of the Respondent who may lose the job if he has to travel from Thane to Shirur. Since he is willing to pay taxi fare to the applicant, there would be no prejudice caused to the applicant to travel from Shirur to Thane. The applicant is also an educated woman and as such does not need to be accompanied by some person to travel.
6. The Court at Thane may consider granting video conferencing facility to the applicant if applied for and her physical presence is not absolutely necessary.
7. Application is Rejected.
8. Parties to act on an authenticated copy of this order.

(KAMAL KHATA, J.)

1 2021 SCC OnLine Bom 13811