

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

MISC. CIVIL APPLICATION NO. 116 OF 2020

Priyanka Sagar Kharpatil	.. Applicant
v/s.	
Sagar Rajendra Kharpatil	.. Respondent

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Mr. Sagar A. Joshi for the applicant.
Mr. Sahil Mahajan i/b Fortitude Law Associates 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 Marriage Petition no.174/2020 filed by the Respondent husband from Civil Judge, Senior Division, at Panvel to Family Court at Thane.
2. The Applicant's case is that the marriage took place on 29th March, 2018 at Raigad. They have no issues out of wedlock. On account of marital discord, the applicant is staying separately with her parents. In the month of October 2020, the Applicant filed proceedings under Section 9 of the Hindu Marriage Act, 1955 for Restitution of Conjugal Rights at family court Thane. On the other hand, the Respondent filed

a petition for divorce before Civil Judge Senior Division at Panvel, Dist: Raigad under Section 13 (1) (ia) of Hindu Marriage Act, 1955. The applicant seeks transfer from Raigad to Thane.

3. The learned Counsel for the applicant submits that the applicant has no independent source of income. The respondent has not paid any maintenance so far. The respondent is well settled and is doing the business of construction of roads. It is therefore submitted that the application of transfer be allowed.
4. On the other hand the learned Counsel for the respondent submits that no case is made out for transfer as distance between Panvel to Thane is merely 45 minutes. He submits that the client is willing to pay taxi charges of Rs. 2000/- for each of the applicant's visits she attends the Court.
5. It is submitted that the matter before the Panvel Court is at an advanced stage as compared to the matter before the Thane Court. He relies upon the judgments in the case of *Priti Sharma v/s. Manjit Sharma reported in (2005) SSC 535* and *Anindita Das v/s. Srijit Das reported in (2006) 9 SCC 197* to submit that the Court had refused to transfer the petition only because the applicant was a woman. The Court observed that it has been found that a large number of

transfer petitions are filed by women taking advantage of the leniency shown by the Courts. He further submitted that the applicant had used some antisocial elements to thrust herself in the respondent's house for which an *ex-parte* order had to be obtained on 19th September, 2020 to restrain the applicant from entering the house of the respondent.

6. In my view, looking at the conduct of the applicant, the distance of travel and the balance of convenience, the application for the transfer is rejected. However, the applicant may apply to the Court for a video conferencing facility on the dates when her physical presence is not required in the Court. The Court may consider such an application on its own merits and subject to the video conferencing facility being available.
7. The respondent shall transfer the taxi charges on each date that the applicant attends Court through electric mode.
8. It is further clarified that the lower courts shall deal with the matter on its own merits without being influenced by the observations made by this court whilst deciding this transfer application.
9. Application disposed. No order as to costs.

(KAMAL KHATA, J.)