

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

MISCELLANEOUS CIVIL APPLICATION NO. 181 OF 2023

Mayuri Amit Dabhade	... Applicant
v/s.	
Amit Vijay Dabhade and Anr.	... Respondents

...

Mr. Dinesh Bhosale for the Applicant.

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CORAM : KAMAL KHATA, J.

DATED : 3RD AUGUST 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 Hindu Marriage Petition no.36 of 2023 filed by the Respondent husband from Joint Civil Judge, Senior Division, Panvel to Civil Judge, Senior Division, Barshi
2. The Applicant's case is that the marriage took place on 27th December 2017 at Pune. On 10th April, 2020 a girl child was born out of the said wedlock. Respondent has ill treated the applicant-wife and therefore, the applicant is staying separately with her parents at Barshi. On 3rd January 2023, the Applicant filed proceedings under Section 13 of the Hindu Marriage Act, 1955 for Divorce at Barshi bearing Hindu Marriage Petition No.3 of 2023. On the other hand, the Respondent filed a petition for

divorce at Panvel under Section 13 (1)(i-a) bearing Marriage Petition no.36/2023.

3. Learned counsel for the applicant submits that the distance between Barshi to Panvel is around 400 kms., which would take 8 to 9 hours for a single journey. It is submitted that the applicant and respondent both are working and both are I. T. Engineers. Learned counsel further submits that it would be extremely difficult for the applicant to travel to Panvel as she has to look after her three year old child. It is submitted that she has to take up work from home for the purpose of taking care of the child. 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***¹ and ***N.C.V. Aishwarya v. A. S. Saravana Karthik Sha***² 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;

1 (2001) 10 SCC 41 : AIR 2002 SC 396

2 2022 SCC OnLine 1199

- (i) Application is allowed in terms of prayer clause (b).
- (ii) The proceedings and application made in H.M.P. No.36 of 2023 pending before 3rd Joint Civil Judge, Senior Division, Panvel be stayed pending transfer; and be transferred to Civil Judge, Senior Division, Barshi.
- (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, Barshi, shall give notice to the parties, preferably within three weeks, to proceed with their respective matters.
- (iv) Civil Judge, Senior Division at Barshi may grant video conferencing facility to the respondent if applied for and if their physical presence is not absolutely necessary.
- (v) All concerned to act on the authenticated copy of this order.

(KAMAL KHATA, J.)