

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

MISCELLANEOUS CIVIL APPLICATION NO.127 OF 2020

Hasrat Jahan Shaikat Shaikh	
@ Hasrat Jahan Abdul Razzak Munshi	..Applicant
v/s.	
Shaikat Nizam Shaikh	..Respondent

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Mr. Nausheen Husain (Munshi) i/b Sumaira Legal Associates for the Applicant.

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CORAM : KAMAL KHATA, J.

DATED : 28TH JUNE 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 Civil Suit No.357 of 2019 filed by the Respondent husband from Civil Judge Junior Division Daund, to Family Court Bandra.
2. The Applicant's case is that the marriage took place on 4th December 2015 at Bandra. Out of the said wedlock a daughter was born on 25th March 2019. The respondent abandoned the applicant and the new born child and went back to his village on 10th May 2019. The respondent filed

regular Civil Suit No.357 of 2019 before the C.J.J.D Daund at Pune.

3. On account of marital discord, the applicant is staying separately with her parents. On 9th March 2020 the Applicant filed proceedings under Section 9 of the Hindu Marriage Act, 1955 for Restitution of Conjugal Rights at Daund. On 7th May 2021, Domestic Violence case was filed at Kurla.
4. Learned counsel for the applicant submits that the applicant is unable to travel as she has no source of income and she has not been paid any compensation so far by the respondent-husband. The distance which would take 7 to 8 hours to and from Daund to Bandra. He accordingly submits that the application be made absolute.
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 ***Sumita 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 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.

In view of the above, I am inclined to allow this application and pass the following order;

(i) Application is allowed in terms of prayer clause (b).

(ii) The proceedings and application made in Civil Suit No.357 of 2019 pending before the Civil Judge Junior Division Daund be stayed pending transfer; and be transferred to Family Court at Bandra Mumbai.

(iii) The transfer may be effected within a period of four weeks and upon receipt of the papers and proceedings the Family Court Bandra, shall give notice to the parties, preferably within three weeks, to proceed with their respective matters.

(v) All concerned to act on the authenticated copy of this order.

(KAMAL KHATA, J.)