

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

MISCELLANEOUS CIVIL APPLICATION NO. 470 OF 2022

Anuradha Akshay Gurav	.. Applicant
v/s.	
Akshay Jaywant Gurav	.. Respondent

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Mr. A. S. Khandeparkar, Sr. Advocate a/w. Mr. N. U. Dedhia i/b.
Khandeparkar & Associates for the Applicant.

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CORAM : KAMAL KHATA, J.

DATED : 16TH 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 No. 282 of 2022 filed before the Civil Court Senior Division, Satara to District Court at Oros, Sindhudurg

2. The Applicant's case is that her marriage was solemnized on 12th May, 2018 and they shifted to Pune. On 13th August 2021 a son was born out of wedlock. On 24th August 2021 during the naming ceremony started fighting with the Applicant and her parents over taking the Applicant to Satara. On 14th January 2022, the applicant has filed a Domestic Violence case against Respondent and the said complaint has been lodged under Section

12,17, 18, 19, 20, 22, 23 of the Domestic Violence Act, 2005. On the other hand in June 2022, the Respondent filed Petition u/s 9 of Hindu Marriage Act, 1955 for restitution of conjugal rights before the City Civil Court Satara.

3. The learned counsel for the Applicant submitted that the Applicant is residing at paternal home at Kavthi since 18th January 2021. She has no source of income and is totally dependent on her parents. She unable to travel as she has to nurture a one and a half year old child. Besides, each time she is required to remain present in Court. The distance from Satara to Oros is around 400 kms, would take considerable time and cause undue hardship and expense. On the other hand the Respondent is well placed in life. Consequently, he submitted that the transfer Application be allowed.

4. None 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 ***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.

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 not only will the Applicant have suffer undue hardship herself but also have considerable inconvenience to travel with some companion would cause tremendous inconvenience and hardship. Besides traveling with a minor child or leaving the child with the parents would cause hardship and inconvenience. Consequently, 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 in terms of prayer clause (a).

7. In view of the above I allow the transfer Application as follows:

- i. The proceedings and application made Marriage Petition No. 282 of 2022 pending before the Civil Court, Senior Division, Satara be stayed pending transfer; and be transferred to the District Court at Oros, Sindhudurg.
- ii. The proceedings initiated by the Applicant under the Protection of Women from Domestic Violence Act, 2005

and the proceedings initiated by the Respondent under Section 9 of the Hindu Marriage Act, 1955 be clubbed together and tried simultaneously.

iii. The Registry shall forward a copy of this order to the Civil Court, Senior Division with instructions to forthwith transmit all the records of Marriage Petition No. 282 of 2022 between the Respondent and Applicant to the District Court at Oros, Sindhudurg preferably within 4 weeks from the receipt of this order.

iv. The District Court at Oros, Sindhudurg shall on receipt of the records of Marriage Petition No.282 of 2022, fix a date preferably within 3 weeks and issue notice to the parties for proceeding with the matter.

8. All concerned to act on the authenticated copy of this order.

(KAMAL KHATA, J.)