

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

**MISCELLANEOUS CIVIL APPLICATION NO. 400 OF 2022
WITH
INTERIM APPLICATION (ST) NO. 15682 OF 2023**

Mrs. Keerthi Dhanesh Pillai	.. Applicant
v/s.	
Mr. Dhanesh Satishkumar Pillai	.. Respondent

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Ms. Pranali P. Railkar i/b. Mr. Ajay A. Joshi for the Applicant in MCA/400/2022.

Mr. Viraj Jain for Respondent in MCA/400/2022 and for the Applicant in IA(ST)/15682/2023.

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CORAM : KAMAL KHATA, J.

DATED : 21ST 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 the Hindu Marriage Petition No. A48/2022 which is pending before the Family Court, Thane to Family Court, Pune.

2. The Applicant's marriage was solemnized on 2nd February 2017 at Kerala. Out of wedlock, a daughter was born on 23.07.2021. Due to matrimonial differences, parties started residing separately. The respondent filed divorce petition on 24.11.2021 under Section 13(1)(i-a) of the Hindu Marriage Act 1995 before Ld. Family Court, Thane. The applicant on the other hand filed Criminal Misc. Application No. 1170 of 2022 u/s. 12 of the Protection of Women from Domestic Violence Act before Ld. Judicial Magistrate First Class Court at Pune.

3. This Court on 19th October, 2022 issued notice to the respondent. The office remark dated 12th December, 2022 indicates that the respondent is duly served.

4. Despite service, the respondent has failed to appear either personally or through an advocate.

5. The Learned Counsel for the Applicant submits that the applicant is taking care of her daughter and her old age parents and hence it is inconvenient to attend the proceedings at Thane. Distance between her residence and the Family Court, Thane is around 150 kms and it takes eight hours to travel to and fro. He therefore submitted that the application for transfer be allowed.

6. 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 (i) ***Sumita Singh v. Kumar Sanjay reported in (2001) 10 SCC 41 : AIR 2002 SC 396*** (ii) ***Soma Chaudhary v/s. Gourab Choudhury (2004) 13 SCC 462***, (iii) ***Rajani K Pardeshi v/s Kishor B Pardeshi (2005) 12 SCC 237***, (iv) ***Anjali A Sadhwani v/s Ashok K Sadhwani AIR 2009 SC 1374*** and (v) ***N.C.V. Aishwarya v. A. S. Saravana Karthik Sha reported in 2022 SCC OnLine 1199*** is that the convenience of the woman that has to be looked into, while considering the transfer of a case from one Court to another.

7. 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 traveling with or without the two year old daughter would cause tremendous

inconvenience and hardship. Besides, she would be saddled with an additional burden being an expense of arranging for a companion if traveling with a child. 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 transfer.

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

- i. The proceedings and application made in Hindu Marriage Petition No. A 48/2022 pending before the Family Court, Thane be stayed pending transfer; and be transferred to the Family Court, Pune.
- ii. The Registry shall forward a copy of this order to the Family Court, Thane, with instructions to forthwith transmit all the records of Hindu Marriage Petition No. A 48/2022 between the Respondent and Applicant to the Family Court, Pune preferably within 4 weeks from the receipt of this order.
- iii. The Family Court, Pune shall on receipt of the records of Hindu Marriage Petition No. A 48/2022, fix a date preferably within 3 weeks and issue notice to the parties for proceeding with the matter.

9. After the matter was disposed of in the morning session, the learned counsel for the respondent appeared in the second session. He submitted that he had taken out an interim application which would evince the conduct of the Applicant. I accordingly heard his submissions in the presence of the Applicant's Advocate.

10. After arguing for sometime, he agreed to withdraw the Interim Application in view of the settled law pointed out to him.
11. Interim Application is dismissed as withdrawn.
12. All concerned to act on the authenticated copy of this order.

(KAMAL KHATA, J.)