

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

MISCELLANEOUS CIVIL APPLICATION NO. 253 OF 2021

Sou. Supriya Pankaj Jadhav	.. Applicant
v/s.	
Pankaj Ankur Jadhav	.. Respondent

...

Ms. Suvarna Telegote for the Applicant.

...

CORAM : KAMAL KHATA, J.

DATE : 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 Marriage Petition (M.P.) No. 1295 of 2020 which is pending before the Pune Family court to the Family Court at Nashik.

2. The Applicant's case is that her marriage was solemnized on 02.01.2019 at Beed. On 18.10.2019 a female child was born out of wedlock. The Applicant was forced out of the matrimonial home and is compelled to stay at her paternal home during her 7th month of pregnancy. The Respondent filed a Marriage Petition No. 1295 of 2020 for divorce at Family Court Pune under section (u/s) 13(1)(i-a) of the Hindu Marriage Act, 1955. On the other hand the

Applicant filed Petition No. E-89 of 2021 u/s 125 of Cr. P.C. in Nashik court.

3. The learned counsel for the Applicant submitted that the Applicant is residing at paternal home at Nashik. She has no source of income and is totally dependent on her parents. She unable to travel to Nashik as she has to nurture her child. Besides, she has no one to accompany her to Nashik, each time she is required to remain present in Court. The distance from Nashik to Pune is around 214 kms, and would take between 10 to 12 hours to and fro which would cause undue hardship and expense. Consequently, she 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 besides traveling with a two year old child would cause tremendous inconvenience and hardship. 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.

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

- i. The proceedings and application made in M.P. No. 1295 of 2020 pending before the Pune Family Court be stayed pending transfer; and be transferred to the Family Court at Nashik.
- ii. The Registry shall forward a copy of this order to the Pune Family Court, with instructions to forthwith transmit all the records of M.P No. 1295 of 2020 between the Respondent and Applicant to the Family Court at Nashik preferably within 4 weeks from the receipt of this

order.

iii. The Family Court at Nashik shall on receipt of the records of M.P. No. 1295 of 2020, 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.)