

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

MISC. CIVIL APPLICATION NO. 225 OF 2021

Saraswati Sagar Masurkar. .. Applicant

Vs.

Mr. Sagar Govindrao Masurkar. .. Respondent.

Mr. Rushikesh G. Patil, for the Applicant.

CORAM : KAMAL KHATA, J.

DATE : 3 JULY, 2023.

P.C. :

1. Learned Counsel for the applicant states that no one has been appearing for the respondent though served. Learned Counsel submits that although his client is willing to travel to the Family Court at Pune if she is given travel expenses, no one from respondent side has reverted. Be that as it may.
2. This Miscellaneous Civil Application is filed by the Applicant wife under section 24 of the Civil Procedure Code 1908, for transfer of Marriage Petition No. 1599/2021 filed by the Respondent husband from Family Court, Pune to Family Court, at Sangli.
3. The Applicant's case is that the marriage took place on 21st

July, 2016 at Satara. They have no issues out of wedlock. On account of marital discord, the applicant is staying separately with her parents. The applicant filed Criminal Miscellaneous Application No. 182 of 2021 before the Judicial Magistrate, First Class at Tasgaon, Dist. Sangli on 21st October, 2021. On the other hand, on 24th February, 2020 the Respondent No.1 filed a petition for divorce at Family Court, Pune under Section 13 (1)(ia) of the Hindu Marriage Act, 1955 bearing Marriage Petition No. 1599/2021.

4. Learned counsel for the applicant submits that the applicant has been assaulted on occasions when she was visited at Pune and therefore apprehends her safety whilst attending the Court. The applicant is staying at Tasgaon, Sangli. The distance between Tasgaon, Sangli and Pune is around 215 kms., which would take approx 8 hours to and fro. Learned counsel for the applicant submits that the applicant has no relative in Pune and therefore, she has to be accompanied by someone to travel. She 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 applicant is solely dependent on her parents. Learned Counsel for the applicant submits that approximately expenses of Rs. 4000/- for each date

incurred would be a huge financial burden on her parents. On the other hand, the respondent is well placed and would not have any inconvenience to travel. 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 (a).

(ii) The proceedings and application made in M.P. No. 1599/2021 pending before Family Court, Pune be stayed pending transfer; and be transferred to Family Court, at Sangli.

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

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

[**KAMAL KHATA, J.**]