

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

**MISCELLANEOUS CIVIL APPLICATION NO.484 OF 2022**

Jayashree Prashant Gaikwad  
@ Jayashri Dinkar Desai  
v/s.

..Applicant

Prashant Vasant Gaikwad

..Respondent

...

Mr. Shailesh A. Chavan for the Applicant.

...

**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 Appeal No.104 of 2018 filed by the Respondent husband from Learned District Court and Additional Judge, Kalyan, Dist. Thane to Learned Family Court Raigad, Alibag.
2. The Applicant's case is that the marriage took place on 24<sup>th</sup> May 2010 at Kalyan. They have no issues out of wedlock. On account of marital discord, the applicant is staying separately with her parents. On the other hand, the Respondent filed a petition for divorce at Kalyan under Section 11, 5 (i) bearing Marriage Petition no.342 of 2012.

3. 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 between Kalyan to Raigad is around 100 kms., which would take a considerable time. He accordingly submits that the application be made absolute.
4. 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 clauses (a).

(ii) The proceedings and application made in Civil Appeal No.104 of 2018 pending before Ld. District Court and Additional Judge, Kalyan, Dist. Thane, is transferred be stayed pending transfer; and be transferred to to Ld. Family

Court, Raigad-Alibag.

(iii) The transfer may be effected within a period of four weeks and upon receipt of the papers and proceedings the Ld. Family Court Raigad-Alibag 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.)**