

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

MISCELLANEOUS CIVIL APPLICATION NO. 38 OF 2023

Durga Devdatta More @ Durga Chandrakant Ekhande	.. Applicant
v/s.	
Devdatta Pratap More	.. Respondent

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Ms. Reshma Kantkar for the applicant.

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CORAM : KAMAL KHATA, J.

DATED : 30TH JUNE 2023.

P.C. :

1. This application is for transfer of Marriage Petition no.104/2023 from Civil Judge, Senior Division, Wai to Family Court, Bandra.

2. The applicant's case is that the marriage took place at Ambe-gaon, District Pune on 18th May 2017. Out of wedlock, there are no issues. On account of marital discord, the applicant filed N.C. No.3616/2018 on 6th October 2018 at MIDC, Andheri Police Station, Mumbai. On 9th October 2018, FIR no.0389/2018 was also lodged against the respondent as

well as his parents at Bhuij Police Station, Satara. The applicant again went back to the respondent's home on 20th October 2018. However, the domestic violence continued and the applicant had to file a D.V. case no.122/DV/2019 before the Metropolitan Magistrate 52nd Court at Kurla, Mumbai on 2nd May 2019.

3. The applicant has been residing at Mahulgaon since January 2019. The respondent has filed the Marriage Petition no.104/2023 at Wai. The applicant submits that she is unable to travel as she has no source of income and is dependent upon her parents for livelihood. The distance between Wai and Mumbai is 255.5 km and would take around 12 hours to travel to and fro. She has not been given any maintenance so far. He accordingly submits that the application be made absolute.

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. 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 (b).
- (ii) The proceedings and application made in M.P. No.104/2023 pending before Civil Judge, Senior Division, Wai, be stayed pending transfer; and be transferred to Family Court, Bandra.
- (iii) The transfer may be effected within a period of four weeks and upon receipt of the papers and proceedings the Family Court, Bandra, 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.)