

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

MISCELLANEOUS CIVIL APPLICATION NO. 16 OF 2022

Mrs. Dhanashree Shantanu Tilganji .. Applicant
v/s.
Shantanu Shrikant Tilganji .. Respondent

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Mr. Vinod Sangvikar a/w. Mr. Yogesh Morbate for the Applicant.
Mr. Sujay H. Gangal for the Respondent.
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CORAM : KAMAL KHATA, J.

DATED : 4TH JULY 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 Divorce Petition no. A - 128/2021 filed by the Respondent husband from Family Court, Kolhapur to Civil Judge, Senior Division, Barshi, Dist. Solapur.
2. The Applicant's case is that the marriage took place on 11th June 2017 at Barshi, Solapur. Out of wedlock a son was born on 13th February 2019. On account of marital discord, the applicant is staying separately with her parents. The Respondent filed a petition for divorce at Family Court, Kolhapur under Section 13 (1) (ia) bearing Divorce Petition

no. A-128/2021.

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 Barshi to Kolhapur is around 263 kms., which would take 12 to 13 hours to and fro. 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.
4. Learned counsel for the respondent submits that respondent-husband has undergone surgery and has been advised rest and shall not be able to travel on account of the operation. Learned counsel for the respondent submits that in view of the medical condition they are willing to take a date that would enable him to travel on a convenient date to attend the court.
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 (c)

(ii) The proceedings and application made in Divorce Petition No. A-128/2021 pending before Family Court, Kolhapur be stayed pending transfer; and be transferred to Civil Judge, Senior Division, Barshi, Dist. Solapur.

(iii) The transfer may be effected within a period of four weeks and upon receipt of the papers and proceedings the Civil Judge, Senior Division, Barshi, Dist. Solapur, 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.)