

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

MISCELLANEOUS CIVIL APPLICATION NO.46 OF 2022

Dipali Ranganath Kamble
@ Ms. Dipali Chetan Zarekar
v/s.

..Applicant

Chetan Ashok Zarekar

..Respondent

...

Mr. Ramji T. Kotali i/b Mr. Manoj B. Bagal for the Applicant.

...

CORAM : KAMAL KHATA, J.

DATED : 20TH JUNE 2023.

P.C. :

1. This Miscellaneous Civil Application is filed by the applicant wife under Section 24 of the Civil Procedure Code to transfer the Marriage Petition No.386 of 2021 from Civil Judge Senior Division Ahmednagar to Civil Judge Senior Division Khed, district Pune.
2. It is the case of the applicant that the marriage was solemnized on 11th May 2014. On 14th February 2015, a daughter was born out of wedlock. On account of disputes, there was discord between the applicant and the respondent and the applicant was subjected to various acts of Domestic

Violence by the respondent. On 7th July 2014, the applicant was threatened and abused and therefore she lodged a report against the respondent at the Dattawadi, Police Station, Pune. Thereafter, the applicant had filed complaints against the respondent on 29th September 2014 and 8th June 2017. The applicant subsequently filed a Marriage Petition bearing No.274 of 2017 for divorce under Section 13(i) (ii) of the Hindu Marriage Act,1955 before the Civil Judge Senior Division Khed district Pune. On the other hand the respondent also filed a Marriage Petition No.386 of 2021 on 1st September 2021 before the Civil Judge Senior Division Ahmednagar.

3. The learned Counsel for the applicant states that the applicant has been residing at Alephata, Tal. Junnar, district Pune. The distance between Pune and Ahmednagar is approximately 200 kilometers. The applicant has no source of income and she is unable to travel 200 kilometers with or without her girl who is only 6 years of age. Besides, she would require someone to accompany her to travel to the Court.
4. The learned Counsel also submits that the applicant is apprehending the danger to her life because respondent has threatened earlier. He accordingly submitted that the

transfer application be allowed.

5. None appeared for the respondent.
6. 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 369*** 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.
7. 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 under hardship herself but also have considerable inconvenience to travel with some companion besides traveling which 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.
8. In view of the above, I allow the transfer Application as

follows.

- i. The proceedings and application made in M.P. No. 386 of 2021 pending before the Civil Judge Senior Division, Ahmednagar be stayed pending transfer; and be transferred to the Civil Judge Senior Division, Khed.
 - ii. The Registry shall forward a copy of this order to the Civil Judge Senior Division, Ahmednagar with instructions to forthwith transmit all the records of M.P. No.386 of 2021 between the Respondent and Applicant to the Civil Judge Senior Division, District, Pune preferably within 4 weeks from the receipt of this order.
 - iii. The Civil Judge Senior Division, Pune shall on receipt of the records of M.P. No.386 of 2021, fix a date preferably within 3 weeks and issue notice to the parties for proceeding with the matter.
9. All concern should act on the authenticated copy of this order.

(KAMAL KHATA, J.)