

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

MISCELLANEOUS CIVIL APPLICATION NO. 30 OF 2022

Mrs. Vaishali Vikrant Vaidya	.. Applicant
v/s.	
Mr. Vikrant Ashok Vaidya	.. Respondent

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Mr. Anilkumar K. Patil for the Applicant.

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CORAM : KAMAL KHATA, J.

DATED : 23RD JUNE 2023.

P.C. :

1. This Miscellaneous Civil Application is filed by the applicant-wife under Section 24 of the Civil Procedure Code, 1908 to transfer Hindu Marriage Petition by the husband from Civil Judge Senior Division, Nashik to Family Court, Dhule.

2. The Applicant and Respondent married on 30th November 2020 at Nashik. On 22nd August 2021 a son was born out of wedlock. On account of the Respondent having an affair, the Applicant was forced to leave the matrimonial home in February 2021 on the allegation that the Applicant was pregnant before marriage. Since then the Applicant is living with her parents at Dhule. The Respondent filed a Marriage Petition before the Family Court, Nashik.

3. The learned counsel for the Applicant submitted that the Applicant is residing at her parental home at Dhule. The distance from Dhule to Nashik is 150 kms and would take around 6 hours to and fro. It is submitted that the Applicant has to take care of a 2 year old son who cannot be left with aged parents or be carried along each time for a Court date. The Respondent though well placed has failed to support the Applicant financially. She would therefore have to suffer undue hardship and expense to attend the Court each time. In view of the above, he submitted that the transfer Application be allowed.

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 :- (i) ***Sumita Singh v. Kumar Sanjay reported in (2001) 10 SCC 41 : AIR 2002 SC 396***, (ii) ***Soma Choudhary v/s Gourab Choudhury (2004) 13 SCC 462***, (iii) ***Rajani K Pardeshi v/s Kishor B Pardeshi (2005) 12 SCC 237***, (iv) ***Anjali A Sadhwani v/s Ashok K Sadhwani AIR 2009 SC 1374*** and (v) ***N.C.V. Aishwarya v. A.S. Saravana Karthik Sha reported in 2022 SCC OnLine 1199*** is that the convenience of the woman that has to be looked into, while considering the transfer of a case from one Court to another.

6. 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 the applicant will suffer undue hardship and expense to travel from Dhule to Nashik from time to time, 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.

7. In view of the above, I allow the transfer Application as under:

“Transfer the Hindu Marriage Petition No. 186 of 2021 pending before Civil Judge Senior Division at Nashik to Family Court, Dhule and stay the proceedings pending transfer.”

8. The transfer may be effected within a period of 4 weeks and upon receipt of the papers and proceedings the Family Court, Dhule shall give notice to the parties, preferably within 3 weeks, to proceed with their respective matters.

9. All concerned to act on the authenticated copy of this order.

(KAMAL KHATA, J.)