

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

MISCELLANEOUS CIVIL APPLICATION NO. 61 OF 2023

Anita Vishal Mali ... Applicant

v/s.

Vishal Pandurang Mali. ... Respondent

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Mr. Murlidhar Kale a/w. Ms. Shrutika Kante i/b. Murlidhar & Associates, for the Applicant.

Mr. Dilip Bodake, for Respondent.

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CORAM : KAMAL KHATA, J.

DATED : 11TH JULY 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 Marriage Petition (M.P.) No. 120 of 2022 pending before the Civil Judge Senior Division, at Vaduj, District: Satara to Civil Judge Senior Division, Pune.

2. The Applicant's case is that her marriage was solemnized on 24/4/2012 at Satara. Out of the wedlock the applicant gave birth to a daughter on 15/12/2014. Due to matrimonial differences, Respondent deserted the applicant. The Respondent filed Hindu

Marriage Petition No. 120 of 2022 under section 13(1)(ia) of the Hindu Marriage Act on 6/5/2022 before Civil Judge Senior Division, at Vaduj, Satara. In and around 22nd July, 2022, the applicant filed an application under section 12 of the Domestic Violence Act before the Court of Judicial Magistrate First Class, Wadgaon, Taluka Maval, Dist. Pune.

3. The applicant has, therefore, filed present miscellaneous civil application for seeking transfer of proceedings.

4. Learned Counsel for the applicant submits that filing of divorce petition at Vaduj is with a malafide intention to harass the applicant as the applicant is residing at Ravet, Pune. He submitted that till date, no maintenance was paid to the applicant. It is submitted that the applicant is dependent on her parents for her livelihood. She has no independent source of income. It is submitted that the applicant cannot afford the travel expenses from Pune to Vaduj. The distance between her place to Vaduj is more than 180 km. It is further submitted that the applicant would require to hire a private taxi to reach Vaduj from her residence which is expensive and she under her present circumstance cannot afford. The learned counsel submitted that it would cause great hardship, inconvenience and expense if the application was not granted.

5. Learned Counsel for the Respondent on the other hand, submitted that he is willing to pay a sum of Rs. 1,000/- as travelling expenses to the applicant. It is submitted that the respondent apprehends danger to his life from the applicant's relatives also. It is submitted that the witnesses also are living in the vicinity of Vaduj and hence it would be convenient for all to attend the Court as Vaduj as opposed to Pune.

6. It is submitted that the respondent had filed Hindu Marriage Petition for divorce on 6th May, 2022 and only as a counterblast to the same, Criminal Application has been filed by the applicant on 9th July, 2022 at Vadgaon. It is further submitted that there are good transport facilities of MSRTC and private buses as well as railway services from Pune to Satara or Koregaon and therefore, contention of hiring a private vehicle to travel is unsubstantiated. It is submitted that the respondent's aged parents, other family members and daughter reside at Aundh and therefore, it would be convenient to attend the court at Vaduj.

7. 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 is 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.

8. In view of the above I allow the transfer Application as follows:

- i. The application is allowed in terms of prayer clause (a).
- ii. The proceedings and application made in H. M.P. No.120 OF 2022 pending before the Civil Judge Senior Division, at Vaduj, District Satara be stayed pending transfer; and be transferred to the Civil Judge Senior Division, at Pune.
- iii. The Registry shall forward a copy of this order to the Civil Judge Senior Division, at Vaduj, District: Satara with instructions to forthwith transmit all the records of H.M.P No. 120 OF 2022 between the Respondent and Applicant to the Civil Judge Senior Division, at Pune preferably within 4 weeks from the receipt of this order.
- iv. The Civil Judge Senior Division, Pune shall on receipt of the records of H.M.P. No. 120 of 2022, fix

a date preferably within 3 weeks and issue notice to the parties for proceeding with the matter.

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

(KAMAL KHATA, J.)