

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

MISCELLANEOUS CIVIL APPLICATION NO. 485 OF 2022

Sou. Sheetal Mahesh Patil	.. Applicant
v/s.	
Mahesh Vitthal Patil	.. Respondent

...
Mr. Rushikesh C. Barge for the Applicant.
...

CORAM : KAMAL KHATA, J.

DATED : 26TH JUNE 2023.

P.C. :

1. Learned counsel for the applicant seeks leave to amend prayer clause (a) of the application. Leave granted. Amendment to be carried out forthwith.

2. 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, Gadhinglaj, Kolhapur to Civil Judge, Senior Division, Satara and Misc. Civil Application from District Court, Gadhinglaj to District Court Satara.

3. The Applicant and Respondent married on 17th May, 2019 at Mhasur, Taluka – Karad, Dist. - Satara. On 14th November 2020 a

daughter was born out of wedlock. The applicant is staying with her father at Satara. The respondent filed a petition under Section 9 of the Hindu Marriage Act at Civil Judge Senior Division, Gadhinglaj, Kolhapur and under Section 6 of the Hindu Minority and Guardianship Act, 1956 at District Court, Gadhinglaj

4. The learned counsel for the Applicant submitted that the Applicant is residing with her old aged parents and son at Satara. The distance from Satara to Kolhapur is about 195 kms. and takes around 6 hours to and fro. No maintenance has been paid to the applicant-wife to look after minor children. It is submitted that the Applicant has to take care of her son who cannot be left with someone 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.

5. None appeared for the Respondent though served.

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 :- (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.

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 the applicant will suffer undue hardship and expense to travel from Satara to Kolhapur 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.

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

“Transfer the Hindu Marriage Petition No. 166 of 2022 pending before Civil Judge Senior Division, Gadhinglaj, Kolhapur to Civil Judge, Senior Division, Satara. Transfer the Misc. Civil Application No. 35 of 2022 from District Court, Gadhinglaj to District Court Satara and stay the proceedings pending transfer.”

9. The transfer may be effected within a period of 4 weeks and upon receipt of the papers and proceedings the Civil Judge, Senior Division Satara and District Court Satara shall give notice to the parties, preferably within 3 weeks, to proceed with their respective matters.

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

(KAMAL KHATA, J.)