

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

MISCELLANEOUS CIVIL APPLICATION NO. 24 OF 2023

Sou. Shobha Raviraj Solanki @

Shoba Baban Chhajalane.

... Applicant

v/s.

Shri Raviraj Harishchandra Solanki.

... Respondent

...

Mr. Tukaram Shendge, for the Applicant.

...

CORAM : KAMAL KHATA, J.

DATED : 18TH 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. A-334 of 2022, which is pending before the Family Court, Thane to the Civil Judge Senior Division, at Pune.

2. The Applicant's case is that her marriage was solemnized on 30th November, 2020 at Pimpri Pune. Out of a wedlock, a daughter was born on 27th October, 2021. Due to matrimonial differences, the applicant left the matrimonial home.

3. The learned Counsel for the applicant submits that the

applicant is working as Peon in Pimpri Chinchwad Municipal Corporation, Pune. She has to look after her minor daughter and has to be, therefore, in the vicinity of her residence. The respondent-husband is well placed and will not have inconvenience to travel. It is therefore submitted that the application be made absolute.

4. This Court on 19th January, 2023 issued notice to the respondent. Office remark dated 9th March, 2023 indicates that the respondent is duly served through his brother. Despite service, the respondent has failed to appear either personally or through advocate.

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*** 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.

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 not only will the Applicant have to suffer undue hardship herself but also expense to travel with some companion. Further, given that she has to fend not only for herself but also for her daughter, 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 follows:

- i. The application is allowed in terms of prayer clause (a).
- ii. The proceedings and application made in M.P. No. A-334/2022 pending before the Family Court, Thane 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 Family Court, Thane with instructions to forthwith transmit all the records of M.P No. A-334/2022 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, at Pune, shall on receipt of the records of M.P. No. A-334/2022, fix a date

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

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

(KAMAL KHATA, J.)