

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

MISC. CIVIL APPLICATION NO. 7 OF 2023

Mrs. Harshita Dinesh Gangwani.	.. Applicant
Vs.	
Mr. Dinesh Sunder Gangwani.	.. Respondent.

Ms. Nidhi Dotiya, for the Applicant.

CORAM : KAMAL KHATA, J.

DATE : 12 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 Divorce Petition bearing Case No. A/1079/2022 which is pending before the Family Court at Pune to Family Court, Mumbai.
2. The Applicant's case is that her marriage was solemnised on 5th December, 2002 at Mumbai. On 10th January, 2004 and 24th June, 2008 two daughters were born out of wedlock. During her stay at the matrimonial home she was subjected to various acts of Domestic Violence by the Respondent. The applicant was forced out of the matrimonial home and is compelled to stay at her paternal home since 8th August 2006. The Applicant has filed complaints against the

Respondent. On the other hand, the Respondent filed a Marriage Petition No. A/1079/2022 for divorce at Family Court, Pune.

3. The learned Counsel for the applicant submitted that the Applicant is residing at paternal home at Mahim, Mumbai. She has no source of income and is totally dependent on her parents. She is unable to travel to Pune as she has to nurture two daughters. Besides, she has no one to accompany her to Pune each time she is required to remain present in Court. The distance from Mumbai to Pune is around 150 kms. which would take 6 to 7 hours to and fro which cause undue hardship and expense. On the other hand, the Respondent has multiple investments and is well placed in life. Consequently, 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 **Sumita Singh vs. Kumar Sanjay** reported in (2001) 10 SCC 41: AIR 2002 SC 396 and **N.C.V. Aishwarya vs. 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.

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 suffer undue hardship herself but also have considerable inconvenience to travel with some companion besides traveling with two minor children 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.

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

(i) The proceedings and application made in MP no. A/1079/2022 pending before the Family Court at Pune be stayed pending transfer; and be transferred to the Family Court, at Bandra, Mumbai.

(ii) The Registry shall forward a copy of this order to the Family Court at Pune with instructions to forthwith transmit all the records of M.P. No. A/1079/2022 between the Respondent and Applicant to the Family Court at Bandra, Mumbai preferably within 4 weeks from the receipt of this

order.

(iii) The Family Court at Bandra, Mumbai shall on receipt of the records of M.P. No. A/1079/2022, 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.**]