

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

**MISCELLANEOUS CIVIL APPLICATION NO. 53 OF 2023**

Akshada Suraj Pawar  
v/s.  
Suraj Abhiman Pawar

.. Applicant  
  
.. Respondent

...

Mr. Vaibhav Salvi i/b. Mr. Vishal Dushing for the Applicant.

...

**CORAM : KAMAL KHATA, J.**

**DATED : 7TH 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 Marriage Petition (M.P.) No. 92 of 2022 which is pending before the Civil Judge Senior Division, District: Shrigonda, Ahmednagar to Civil Judge Senior Division, Khed District: Pune.

2. The Applicant's case is that her marriage was solemnized on 30<sup>th</sup> June 2020 at Pune. During her stay at the matrimonial home she was subjected to various acts of Domestic Violence by the Respondent. On 20<sup>th</sup> March 2021 a daughter was born out of the wedlock. The Applicant was forced out of the matrimonial home and is compelled to stay at her paternal home. Despite notices

issued in January and 25<sup>th</sup> March 2022, the Respondent refused to cohabit with the Applicant. The Respondent filed a Marriage Petition No 92 of 2022 for divorce at Civil Judge Senior Division, District: Shrigonda under section (u/s) 13 (1) (ia) & 26 of the Hindu Marriage Act, 1955.

3. The learned counsel for the Applicant submitted that the Applicant is residing at paternal home at Pune. She has no source of income and is totally dependent on her parents. She unable to travel to Pune as she has to nurture a one and a half year old child. Besides, she has no one to accompany her to Shrigonda each time she is required to remain present in Court. The distance from Pune to Shrigonda is around 150 - 200kms, would take considerable time and cause undue hardship and expense. On the other hand the Respondent has multiple business 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 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* 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 a one and a half year old 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 follows:

- i. The proceedings and application made in M.P. No. 92 of 2022 pending before the Civil Judge Senior Division, District: Shrigonda be stayed pending transfer; and be transferred to the Civil Judge Senior Division, Khed District: Pune.

- ii. The Registry shall forward a copy of this order to the Civil Judge Senior Division, District: Shrigonda, with instructions to forthwith transmit all the records of M.P No. 92 of 2022 between the Respondent and Applicant to the Civil Judge Senior Division, Khed District: Pune preferably within 4 weeks from the receipt of this order.
  - iii. The Civil Judge Senior Division, Khed District: Pune shall on receipt of the records of M.P. No. 92 of 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.)**