

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

MISC. CIVIL APPLICATION NO.4 OF 2023

(Sau. Vaishnavi Ranjit Sawant Vs. Ranjit Shripati Sawant)

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri N. Shiralkar, Advocate h/f Shri V.B. Bhise, Advocate for the applicant.

CORAM:- URMILA JOSHI-PHALKE, J.

DATED :- FEBRUARY 15, 2023.

Heard.

2. The applicant-wife has preferred this application for seeking transfer of the matrimonial proceeding bearing HMP No.106/2022 pending before the 2nd Joint Civil Judge, Senior Division, Kolhapur to the Court of Civil Judge, Senior Division, Akot, District Akola.

3. As per the contention of the applicant, she is legally wedded wife of the non-applicant and her marriage was solemnized on 18/07/2021. After marriage she was not treated well and subjected her for physical and mental cruelty, therefore, she constrained to leave matrimonial house. After she was deserted, the non-applicant has not made any provision for her livelihood or for her maintenance. Thus, she has no source of income. Now the non-applicant has preferred Hindu Marriage Petition for obtaining the divorce bearing No.106/2022 before the Civil Judge, Senior Division, Kolhapur which is at a distance of 750 kilometers from Akot. The applicant is residing along with her widowed mother. There is nobody

to escort her to attend the proceeding at Kolhapur. The distance between Akot and Kolhapur is 750 kilometers which is difficult for the applicant to travel. Moreover, she is unable to bear the cost of litigation as she has no source of income. It is further contended that she has filed the proceeding under the provisions of Protection of Women from Domestic Violence Act, 2005 and the non-applicant is attending such proceeding. As the place where the Hindu Marriage petition is preferred by the non-applicant is inconvenient place she seeks transfer of such proceeding from Kolhapur to Akot. Notice of such application is served to the non-applicant. After service of notice, opportunities are afforded to him to resist the application. However, he has chosen not to contest.

4. Heard Shri Shiralkar, learned Counsel for the applicant.

5. He endorsed the same contentions as contended in the application. In addition to that he submitted that considering the distance between two places it is highly difficult for the applicant to travel all alone and to attend the proceeding. Moreover, there is nobody to escort the applicant as she is residing along with her widowed mother. Her father is not alive. In the above circumstances, the convenience of the wife is to be seen and the proceeding is to be transferred to Akot.

6. In support of his contention, he placed reliance on *D. Raja Rajeswari Vs. R. Sathish Kumar (2022) 2 SCC 329* wherein it is held that multiple

proceedings between the same parties transferred and consolidation of all proceedings before one Court when warranted and while answering this question the Hon'ble Apex Court held that it is in the interest of justice that all these matters be heard by the same Court and the matter was transferred by considering the convenience of the wife. He further placed reliance on ***N.C.V. Aishwarya Vs. A.S. Saravana Karthik Sha*** (Civil Appeal No.4894/2022) by order dated 18/07/2022 wherein the Hon'ble Apex Court dealt with this issue in paragraph No.9 as follows :

“9. The cardinal principle for exercise of power under Section 24 of the Code of Civil Procedure is that the ends of justice should demand the transfer of the suit, appeal or other proceeding. In matrimonial matters, wherever Courts are called upon to consider the plea of transfer, the Courts have to take into consideration the economic soundness of both the parties, the social strata of the spouses and their behavioural pattern, their standard of life prior to the marriage and subsequent thereto and the circumstances of both the parties in eking out their livelihood and under whose protective umbrella they are seeking their sustenance to life. Given the prevailing socio- economic paradigm in the Indian society, generally, it is the wife's convenience which must be looked at while considering transfer.”

7. As noticed above, in the present case also the applicant is 23 years young lady staying along with her

old aged widowed mother. It is difficult for her to travel all the way from Akot to Kolhapur which is 750 kilometers. Moreover, the non-applicant has not made any provision for her maintenance or for her livelihood, therefore, it is difficult for her to bear the cost of litigation. In view of that and under the above circumstances, applicant has made out the case for transfer of the proceeding. Considering the convenience of the applicant, application deserves to be allowed.

8. In view of that I proceed to pass the following order :

- (i) The application is allowed.
- (ii) The matrimonial proceeding bearing HMP No.106/2022 pending before the 2nd Joint Civil Judge, Senior Division, Kolhapur is transferred to the Court of Civil Judge, Senior Division, Akot, District Akola.
- (iii) The Civil Judge, Senior Division, Kolhapur shall send the record and proceedings to the Civil Judge, Senior Division, Akot, District Akola.
- (iv) The parties to appear before the Civil Judge, Senior Division, Akot, District Akola on 14/03/2023.

(URMILA JOSHI-PHALKE, J.)