

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

**MISCELLANEOUS CIVIL APPLICATION NO. 255 OF 2022**

Prachi Santosh Kokate, D/o  
Prakash Bhingarde

....Applicant

**Versus**

Santosh Subhash Kokate

....Respondent

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Mr. Anand Jayaram Shinde, Advocate for the Applicant.  
Mr. Shreyash Sudhir Butala, Advocate for the Respondent.  
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**CORAM : SHIVKUMAR DIGE, J.**

**DATE : 1<sup>st</sup> MARCH, 2024.**

**P.C. :**

1. By this application, Applicant is seeking transfer of divorce proceeding pending before the Civil Judge, Senior Division, Ratnagiri to Civil Judge, Senior Division, Kalyan.

2. It is contention of learned counsel for the Applicant that Applicant stays at Dombivali, Kalyan with her 9 years old son and old age parents. The distance between Kalyan to Ratnagiri is more than 300 km. Applicant is finding difficult to attend the Court's date at

Ratnagiri. Learned counsel further submitted that the Respondent had filed suit for Restitution of Conjugal Rights against the Application at Civil Judge, Senior Division, Ratnagiri. This Court had transferred the said suit at Kalyan thereafter, the petition for divorce is filed by the Respondent. Hence, requested to allow the Application.

3. Learned counsel for the Respondent vehemently submitted that the Applicant never appeared in the proceeding pending before the Civil Judge, Senior Division, Ratnagiri hence, the trial Court has allowed the divorce petition without hearing the Applicant thereafter, Applicant has filed appeal. The said Appeal was remanded back to the trial Court for fresh hearing. After remanding the matter, Applicant has not filed written statement. There is no ground to transfer the application hence, requested to reject the Application.

4. I have heard both learned counsel. Applicant stays at Dombivali, Kalyan with her 9 years old son and old age parents. She is finding difficult to attend the Court's date at Ratnagiri. The distance between Kalyan to Ratnagiri is more than 300 km. It is settled principle of law that while considering the transfer petition, Court has

to consider the convenience of wife over the husband.

5. In view of above, I pass following order.

**ORDER**

- i. Application is allowed.
- ii. The marriage petition No.24 of 2020 pending before the Civil Judge, Senior Division, Ratnagiri be transferred to Civil Judge, Senior Division, Kalyan.
- iii. Both parties to appear before the concern Court on 1<sup>st</sup> April, 2024.

6. The Miscellaneous Civil Application is disposed of.

**(SHIVKUMAR DIGE, J.)**