

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

MISCELLANEOUS CIVIL APPLICATION NO. 105 OF 2023

Pooja Mangesh Dubey
Versus

....Applicant

Mangesh Rameshchandra Dubey

....Respondent

Mr. Ajit Anekar a/w Ms. Priyanka Srivastava i/b Auris Legal, Advocate
for the Applicant.

Mr. Kishor Mara, Advocate for the Respondent.

CORAM : SHIVKUMAR DIGE, J.

DATE : 21st FEBRUARY, 2024.

P.C. :

1. By this application, Applicant is seeking transfer of divorce petition filed by the Respondent-Husband, which is pending before the the Civil Judge, Senior Division, Vasai to Family Court, Pune.

2. It is contention of learned counsel for the Applicant that Applicant stays at Pune with her old age parents. She has no financial condition to attend the Court's date at Vasai. She is finding difficult to

attend the Court's date at Vasai. Learned counsel further submitted that Applicant has filed proceedings under 498-A of Indian Penal Code it is pending before the Judicial Magistrate First Class, Pune, the Respondent attend the Court's dates in that matter. Hence, requested to allow the Application.

3. It is contention of learned counsel for the Respondent-Husband that only to harass the Respondent proceedings are filed at Pune. The family members of the Respondent have been added as a party in the said proceedings to harass them. Respondent is ready to provide travelling allowances to the Applicant. Hence, requested to reject the Application. He relied on Judgment ***Ruchi Rawat vs. Principal Judge, Family Court Etah & Anr. (Civil Appeal No(s). 5218 of 2022) 2022 6. S.C.R. 1148.***

4. I have heard both learned counsel. Applicant stays at Pune with her old age parents. She has no financial condition to attend the Court's date at Vasai. The Respondent attend the Court's dates in the proceedings filed by the Applicant at Pune. It is settled principle of law that convenience of the wife has to be considered over the

husband in case of transfer petition. I have gone through the case law cited by the learned counsel for the Respondent. The facts of the cited case and present case are different hence not applicable.

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

ORDER

- i. Application is allowed.
- ii. The marriage petition No. 505 of 2022 pending before the Civil Judge, Senior Division, Vasai be transferred to Family Court, Pune.
- iii. Both parties to appear before the Family Court, Pune on 18th March, 2024.
- iv. The trial Court is requested to expedite the trial Court.

6. The Miscellaneous Civil Application is disposed of.

(SHIVKUMAR DIGE, J.)