

HARSHADA H. SAWANT
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

MISCELLANEOUS CIVIL APPLICATION NO.152 OF 2024

Poonam Nilesh Shirsath

.. Applicant

Versus

Nilesh Ashok Shirsath

.. Respondent

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- Mr. Ganesh Bhujbal, Advocate for Applicant.
 - None for the respondent.
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CORAM : MILIND N. JADHAV, J.

DATE : SEPTEMBER 25, 2024

P.C.:

- 1.** Heard Mr. Bhujbal, learned Advocate for Applicant.
- 2.** None appears for the Respondent.
- 3.** There are several orders passed by this Court from 01.04.2024 when notice was issued for the first time. In June, notice has been issued for a second time. There are bailiff's remarks which clearly show that the Respondent is not found at his original address and he is residing at Thane and his detailed address at Thane is not known. Thereafter it appears that the Applicant has unearthed the address at Thane and amended the Application. After the Application having been amended, the address of Respondent in Thane is Flat No.202, B – Wing, 2nd Floor, Jasmin Building, Charm City, Asangaon, East, Taluka- Shahpur, District – Thane, Pin No-421601. This clearly shows that Applicant and Respondent are both are residing at Thane.

The remark also shows that Applicant has shifted to Thane which is seen from the remark of Registry. Mr. Bhujbal would inform the Court that he has already intimated the Advocate appearing for Respondent – husband in the Family Court at Nashik about the present MCA and he is aware about it. In that view of the matter, hearing of the present Miscellaneous Civil Application cannot be protracted any further since this Court is not an adjournment Court which will keep on passing order for adjournment. Further considering that both parties now reside in Thane, this transfer Application need not be adjourned any further in view of the relief which is sought.

4. Miscellaneous Civil Application seeks transfer of Marriage Petition No.290 of 2022 filed by the Respondent in Family Court, Nashik to the Court of Civil Judge Senior Division, Kalyan. The proceedings under the Protection of Women from Domestic Violence Act, 2005 (for short '**D.V. Act**') is filed by the Applicant – wife in Ulhasnagar. That apart, Applicant is required to provide care and support for her four year old daughter who resides with her and her parents at Badlapur. Apart from the proximity of distance between the two destinations, hardship of the Applicant is clearly evident if she is required to leave her four year old daughter in the care of her parents at Kalyan and required to travel all the way to Niphad, Nashik to attend the Court hearings. Considering the imprimatur of the Supreme

Court in the case of **N.C.V. Aishwarya Vs. A.S. Saravana Karthik Sha¹**, this is a fit case where the transfer of Marriage Petition filed by Respondent – husband is required to be allowed. The grounds enumerated in the Application are clearly evident of the hardship encountered by the Applicant – wife. In that view of the matter, the Miscellaneous Civil Application stands allowed in terms of prayer clause (a) which reads thus:-

“(a) This Hon'ble Court, be please to transfer the Hindu Marriage Petition No. 290 of 2022 filed before Family Court Nashik filed by the Respondent/Husband to the Court of Civil Judge, (SD)Kalyan, Thane.”

5. With the above directions, Miscellaneous Civil Application is allowed and disposed.

H. H. SAWANT

[MILIND N. JADHAV, J.]

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1 AIR 2022 SC 4318.