

Ajay

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

MISCELLANEOUS CIVIL APPLICATION NO. 185 OF 2024

Rahul Panditrao Deore	.. Applicant
Versus	
Priyanka Rahul Deore	.. Respondent

WITH
MISCELLANEOUS CIVIL APPLICATION NO. 298 OF 2024

Priyanka Rahul Deore	.. Applicant
Versus	
Rahul Panditrao Deore	.. Respondent

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- Mr. Rajesh More, Advocate for Applicant in MCA No.185 of 2024 and Respondent in MCA No.298 of 2024.
 - Mr. Nikhil G. Hire a/w. Ms. Sampada S. Patil, Advocates for Applicant in MCA No.298 of 2024 and Respondent in MCA No.185 of 2024.

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CORAM : MILIND N. JADHAV, J.
DATE : AUGUST 28, 2024

P.C.:

1. Heard Mr. More, learned Advocate for Applicant in Misc. Civil Application No.185 of 2024 and Respondent in Misc. Civil Application No.298 of 2024 and Mr. Hire, learned Advocate for Applicant in Misc. Civil Application No.298 of 2024 and Respondent in Misc. Civil Application No.185 of 2024.

2. There are two Misc. Civil Applications (for short “MCA”). MCA No.185 of 2024 is filed by the husband seeking transfer of Petition under Section 9 of the Hindu Marriage Act, 1955 instituted by

the wife in the Civil Judge Senior Division, Malegaon to the Civil Judge Senior Division, Baramati whereas MCA No.298 of 2024 is filed by wife seeking transfer of the Marriage Petition from Baramati to Malegaon.

3. Mr. More, learned Advocate for the husband would contend that considering the proximity of distance and the inconvenience that would be caused to either parties, this Court be pleased to transfer the matters to some Court midway between the two destinations having equal proximity of distance from Baramati as well as Malegaon. Such a submission cannot be countenanced at all. He would next submit that considering the inconvenience expressed by the husband in his Application and that he is ready and willing to provide all expenditure incurred by the wife to travel to Baramati on the scheduled dates of hearing, the Application under Section 9 filed by the wife be transferred to Baramati.

4. *PER CONTRA*, Mr. Hire, learned Advocate for wife would submit that apart from the Application under Section 9, the Protection of Women from Domestic Violence Act, 2005 (D.V. Act) proceedings filed by wife in the Civil Court, Malegaon and complaint under Section 498-A of the Code of Criminal Procedure, 1973 are pending in Malegaon and in that view of the matter he draws my attention to the grounds of hardship enumerated in paragraph No.8(i) to 8(xi) of MCA

No.298 of 2024. I have perused the same and I have absolutely no reason to disbelieve the same. The grounds of hardship are evident as made out by the wife in her transfer Application. They far outweigh the case put up by the husband.

5. As held in the case of *N.C.V. Aishwarya Vs. A.S. Saravana Karthik Sha*¹, the Supreme Court has given its imprimatur while holding that given the prevailing socio-economic paradigm in the Indian society, generally, it is the wife's convenience which is to be looked at while considering the transfer. The Supreme Court further states that the Courts have to take into consideration the economic soundness of both parties, the social strata of the spouses as also their present status and other factors while considering transfer.

6. In view of the above, MCA No.185 of 2024 stands rejected and MCA No.298 of 2024 stands allowed in terms of prayer clause 'a' which reads thus:-

“(a) The Hon'ble Court may transfer Marriage Petition No.43 of 2024 pending before Civil Judge Senior Division, Baramati to the Hon'ble Civil Judge Senior Division, Malegaon.”

7. Needless to state that the learned Civil Judge Senior Division, Malegaon shall permit the Respondent to appear on VC on the scheduled dates of hearing at his request.

¹ AIR 2022 SC 4318

8. With the above directions, both MCAs are disposed.

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[MILIND N. JADHAV, J.]

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