



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

MISC. CIVIL APPLICATION [TR] NO. 660 OF 2023

Nilima w/o Pratik Najare,
Aged about 34 years,
Occupation-Housewife,
R/o. C/o. Diliprao Parsotwar,
Near Swapnil Kirana Stores,
Dr. Zakir Husain Ward,
Ballarpur, Tah. Ballarpur,
District-Chandrapur-442 701.

..

Applicant

.. Versus ..

Pratik s/o Prakash Najare,
Aged about 35 years,
Occupation-Service,
R/o. 505, "C" Wing,
Om Green Ridge Society,
Near Padmavati Nagar Gate,
Next to Bolinj Naka, Agashi Road,
Virar (West), Dist. Palghar-401 303. ..

Non-Applicant

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Mr. Bharat Chandrakapure, Advocate for Applicant,
Mr. A.V. Band, Advocate for Non-Applicant.

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**CORAM : M.W. CHANDWANI, J.
DATE : 06/03/2024.**

JUDGMENT :

1. Heard. **Admit.**
2. By this application under Section 24 of the Code of Civil Procedure, the applicant seeks transfer of the Hindu Marriage Petition (HMP) No. 533/2022 pending on the file of Civil Judge, Senior Division, Vasai, District-Thane to Civil Judge, Senior Division, Chandrapur, on the ground that it is not possible for the applicant physically and monetarily to attend the dates in divorce petition pending at Vasai personally from Ballarpur to Vasai Court. The distance between two stations is about 850 k.m. Moreover, the non-applicant is receiving a handsome salary and is attending domestic violence proceedings filed under the provisions of the Protection of Women from Domestic Violence Act, 2005 filed by the applicant.
3. The application is objected by the non-applicant on the ground that applicant was a working lady and was conducting online webinar when she was cohabitating with the non-applicant. She even used to travel alone. Therefore, according to the non-applicant, the applicant is financially sound and

physically fit to attend the proceedings at Vasai. Therefore, he sought rejection of the application.

4. Mr. Chandrakapure, learned counsel for the applicant submits that the applicant is not earning at all and even the non-applicant has not made any arrangement for her maintenance. After travelling alone to Vasai, which is 850 k.m. away from Ballarpur, she will have to come back to Ballarpur for attending the proceedings filed herein. Whereas the non-applicant is drawing a handsome salary and is also defending the proceeding filed before the Judicial Magistrate, First Class, Ballarpur under the provisions of the Protection of Women and Domestic Violence Act, 2005. The documents filed by the applicant were prior to leaving the matrimonial house and, therefore, the present condition of the applicant is to be considered.

5. Per contra, Mr. Band, the learned counsel appearing on behalf of the non-applicant vehemently objected the application on the ground that the applicant was conducting webinar and online programmes when she was living with the non-applicant. She is a qualified Doctor and she was travelling solo to various places, therefore, it will not be difficult for her to

attend the proceeding at Vasai. He took me to various documents filed by him to show her activity when she was living with the non-applicant and by taking the help of these documents, learned counsel for the non-applicant submitted that the application deserves to be dismissed.

6. Evidently, the distance between Ballarpur to Vasai is 850 k.m. which requires a day's journey. After attending the Court at Vasai, she will again have to travel alone for a day. The parents of the applicant are old. The documents filed by the non-applicant are of the period when the applicant was residing with the non-applicant. Nothing has been brought on record to show that she is financially supported. Till date no order of maintenance is passed in her favour. The Apex Court in the case of **N.C.V. Aishwarya .vs. A.S. Saravana Karthik Sha**, in para 9 has observed as under :

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. Considering the present position of the applicant and observations of the Supreme Court in the case of **N.C.V. Aishwarya** (supra), that the wife's convenience is to be looked into while considering the transfer application. In my view, a case is made out for transfer of the Hindu Marriage Petition No.533/2022 from Civil Judge, Senior Division, Vasai to Civil Judge, Senior Division, Chandrapur. Hence, I pass the following order :

(i) Hindu Marriage Petition No.533/2022 is ordered to be transferred from Civil Judge, Senior Division, Vasai, District-Thane to Civil Judge, Senior Division, Chandrapur.

(ii) The non-applicant would be at liberty to appear before the Civil Judge, Senior Division, Chandrapur through video conferencing upon an application made in that behalf to the Civil Judge, Senior Division, Chandrapur.

(iii) In the aforesaid terms, MCA is allowed and disposed of.

(M.W. Chandwani, J.)