



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

MISC. CIVIL APPLICATION (TR) NO.939 OF 2023

APPLICANT : Dr. Purva w/o Abhijit Wankhede, (Purva
d/o. Subramani Jamnik), Aged about 27
years, Occ. Education, R/o. Bajoria
Nagari, Hingna Road, Wazewadi, Akola,
Tah. & District Akola.

..VERSUS..

NON-APPLICANT : Dr. Abhijit s/o Ashok Wankhde,
Aged about 32 years, Occ. Medical
Practitioner, R/o.204/13, Vidhi Complex,
Yogidham, Kalyan (East), District-Thane
Police Station Khadakpada, Kalyan,
District – Thane.

Ms N. Dhoke, Adv. h/f Mr M. V. Rai, Advocate for Applicant.

CORAM : **M. W. CHANDWANI, J.**

DATE : **18th MARCH, 2024.**

ORAL JUDGMENT

. Heard.

2. Though, the non-applicant is served, none appears on
his behalf. Therefore, the averments made in the application went
un-controverted.

3. **Admit.**

4. This is an application under Section 24 of the Civil Procedure Code for transfer of petition No.849/2023, filed by the non-applicant against the applicant from the Court of learned Civil Judge Senior Division, Kalyan, Mumbai to the Family Court, Akola.

5. The applicant is residing with her parents at Akola. The applicant filed an application bearing No.843/2023 under Section 12 of the Protection of Women from Domestic Violence Act, 2005, against the non-applicant before the learned Judicial Magistrate First Class, Akola, which is still pending. The non-applicant has filed a petition bearing No.849/2023 against the applicant, which is pending in the Court of the learned Civil Judge Senior Division, Kalyan, for which transfer is sought.

6. Heard Ms. Dhoke, learned counsel for applicant and also perused the record.

7. It is contended on behalf of the learned counsel for the applicant that the applicant has no independent source of income and she is living at the mercy of her parents. The applicant is not in a position to bear to and fro expenses of her traveling for

attending the proceedings of divorce filed by non-applicant against her at Kalyan. Hence, she seeks transfer of the said application from the Court of learned Civil Judge Senior Division to the Family Court, Akola.

8. It is seen from the record that the applicant is living at the mercy of her parents. The applicant has to travel Kalyan, which is more than 500 kms. away from Akola and which requires at least seven hours of traveling. After the matter is over, she has to return to Akola on next day. She is required to incur expense for traveling to and fro from Akola to Kalyan to attend the said proceeding. The non-applicant otherwise has to visit Akola to defend the pending proceedings filed by the applicant. Hence, no prejudice will be caused if the proceeding, filed by the non-applicant against the applicant, is transferred from Kalyan to Akola.

9. In these peculiar circumstances and in view of the ratio laid down by this Court in the case of *Sangamitra w/o Ramakant Royalwar Vs. Ramakant s/o Gangaram Royalwar [2008 (6) ALL.MR.1]* and also in view of the recent verdict of the Hon'ble

Supreme Court in the case of *N.C.V. Aishwarya vs. A.S. Saravana Karthik Sha [2022 LiveLaw (SC) 627]*, wherein it has been held that the convenience of the wife must be looked, a case is made out for transferring the said proceedings from Kalyan to Akola. Hence, the following order:-

- i) The application is **allowed**.
- ii) The proceedings bearing petition No.849/2023, pending in the Court of the learned Civil Judge Senior Division, Kalyan, Mumbai, is transferred to the Family Court, Akola.
- iii) Both the parties are directed to appear before the concerned Court at Akola on 25.04.2024.

(M. W. CHANDWANI, J.)