



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

901 MISC. CIVIL APPLICATION NO.112 OF 2025

Bhavna W/o. Prashant Munde And Others.

VERSUS

Prashant S/o. Vishnupant Munde And Others.

...

Advocate for Applicants : Mr. K.J. Suryawanshi

Advocate for Respondent no.1 : Mr. G.K. Naik-Thigle

Mr. A. P. Undirwade & S. A. Kulkarni Advocate For R-2

Advocate for Respondents 4,5 : Ms. Ankita Katakdhond i/b Mr.
N. S. Murkute.

...

WITH

CIVIL APPLICATION NO. 7495 OF 2025 IN MCA/112/2025

Tanishka d/o. Prashant Munde through her Court Appointed
Guardian Sandesh Vikram Hange

Versus

Bhavna Prashant Munde and others.

...

Ms. Rashmi S. Kulkarni advocate for applicant.

Mr. K.J. Suryawanshi advocate for respondent no.1

...

CORAM : S. G. CHAPALGAONKAR, J.

Reserved on : August 06, 2025

Pronounced on August 13, 2025

FINAL ORDER :-

1. The applicants seeks transfer of Special Civil Suit
no.34/2021 pending before the Joint Civil Judge Senior
Division, Ambajogai, District Beed to the Court of Civil Judge
S.D. Pune.

2. Mr. Suryanwanshi learned advocate appearing for the applicants submits that marriage between applicant no.1 and respondent no.1 was solemnized in the year 2007. Couple is blessed with two daughters out of matrimonial relationship. However, lateron, dispute erupted between them. Applicant/ wife has instituted matrimonial cases against respondent no.1 before the Courts at Pune and those are pending. He would further submit that, as advised she has filed Special Civil Suit no.34/2021 before the Civil Judge S.D. Ambajogai seeking a decree of partition and separate possession for herself and on behalf of her daughters. He would submit that large number of criminal cases are pending against her husband and he is a person of criminal background. At present she is temporarily residing at Chhatrapati Sambhajinagar and pursuing the litigation for custody of minor daughters. According to Mr. Suryawanshi, it is inconvenient for applicant/wife to prosecute the suit at Ambejogai as there is every apprehension of danger to life and limb to her. He submits that, since four different cases are already pending at Pune, the Special Civil Suit No.34 of 2021 pending at Ambejogai may be transferred to Pune. It would be convenient even for the respondent.

3. Mr. Thigle learned advocate appearing for respondent no.1 strenuously opposed the application for transfer. He submits that the movable and immovable properties, which are subject matter of partition suit are situated in Beed, Osmanabad and Latur Districts, which are in the vicinity of Ambajogai. He points out that applicant is residing at Chhatrapati Sambhajnagar. A distance between Chhatrapati Sambhajnagar to Pune and Chhatrapati Sambhajnagar to Ambajogai is similar. Therefore, there is no question of inconvenience to the applicant owing to distance. Learned advocate appearing for respondent no.3 has no objection, if the proceeding is transferred to Pune.

4. Respondent nos.4 and, 5 who are purchasers of joint family property and residents of Latur, opposed the application on the ground that they are old aged persons and it would be inconvenient for them if proceeding is transferred.

5. Having considered submission advanced, it can be observed that, applicant is litigating for partition and separate possession of properties. Applicant nos.2 and 3 being minor daughters of respondent no.1 are entitled for share. Admittedly, applicant no.1 has instituted three matrimonial

proceedings at Pune and those are pending adjudication. Respondent no. 1 is attending the same. It would be therefore, convenient for applicant no.1 so also respondent no.1 if the present proceeding is transferred to Pune.

6. As per law led down by the Supreme Court of India in case of **N.C.V. Aishwarya Vs. A.S. Sarvana Karthik Sha reported in AIR 2022 SC 4318**, convenience of wife and the desirability of trying interdependent cases together to avoid multiplicity of proceedings and conflict of decisions are crucial factors in deciding the transfer of matrimonial cases.

7. Although the Special Civil Suit no.34 of 2021 pending at Ambajogai is not strictly matrimonial dispute, but the same is arising out of matrimonial dispute. The applicant has claimed that she is temporarily residing at Chhatrapati Sambhajinagar. Respondent no.3, who is aged about 74 years has consented for transfer of the matter to Pune. So far as respondent no.2 is concerned, she is also residing at Pune. Respondent nos.4 and 5 are residents of Latur. But they are purchasers of joint family property. Convenience of the applicant and respondent nos.2 and 3 would tilt in favour of transfer of proceeding to Pune.

8. Although Civil Applicant no.7495 of 2025 is filed seeking intervention by Court appointed guardian of applicant no.2 and opposition is raised for transfer of the proceeding, it cannot be entertained for the reason that guardian appointed by the Court is only for person of applicant no.2 pending dispute between her parents. He cannot claim himself as a guardian as regards to the property of minor. The applicant being mother is natural guardian, and she is prosecuting the suit for partition in the interest of minors.

9. In that view of matter, civil application no.7495 of 2025 deserves to be **rejected** and Misc. Civil Application No. no.112 of 2025 deserves to be **allowed**, and it is accordingly **allowed** in terms of prayer clause '**B**' and disposed of.

(S. G. CHAPALGAONKAR)
Judge

...

aaa-