

Arun Sankpal

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

MISC. CIVIL APPLICATION NO. 187 OF 2024

Poonam Vinayak Salunkhe ...Applicant

Versus

Vinayak Krushnarao Salunkhe ...Respondent

Mr. Siddharth Shitole, for the Applicant.

Ms. Pooja Langhe (through VC), for the Respondent.

CORAM: N. J. JAMADAR, J.

DATED : 2nd MAY 2025

ORDER:-

1. This is an Application under Section 24 of the Code of Civil Procedure 1908 (“the Code”) for transfer of Marriage Petition P.A. No. 29 of 2020 filed by Respondent-husband, from the Family Court at Ahmednagar to the Court of Civil Judge, Senior Division, Vita, District Sangli.

2. The marriage of the Applicant was solemnized with the Respondent on 26th December 2013 at Katraj, Pune. They are blessed with a daughter. The Respondent allegedly started to harass the Applicant by suspecting her fidelity and falsely accusing her of having a relationship outside marriage. The Applicant was constrained to file a proceeding under the Protection of Women from Domestic Violence Act,

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2005 (“DV Act”), being Criminal MA No. 266 of 2019, before the JMFC, Vita. To give a counterblast, the Respondent No.1 has filed a Marriage Petition, PA. No. 29 of 2020, before the Family Court at Ahmednagar. Asserting that the distance between Vita and Ahmednagar is more than 240 kms and the Applicant has no means to effectively defend the Marriage Petition before the Family Court at Ahmednagar, the Applicant has preferred this Application.

3. An Affidavit in Reply has been filed on behalf of the Respondent. Apart from controverting the allegations of ill-treatment and harassment, Respondent No.1 contends that the Applicant has not approached the Court with clean hands in as much as the Applicant is not at all residing at Nave Karve, Taluka Khanapur, District Sangli. The Applicant is residing at Pune. The daughter of the Applicant and the Respondent No.1 is enrolled in a school at Pune. Therefore, the Application for transfer of the Marriage Petition to the Court of CJSD, Vita, does not deserve to be entertained.

4. I have heard Mr. Shitole, the learned Counsel for the Applicant, and Ms. Pooja Langhe, the learned Counsel for the Respondent No.1, at some length.

5. Ordinarily, in the matter of transfer of the matrimonial proceeding on account of the adverse socio-economic conditions which the women generally face, in the event of marital discord, convenience

of wife is preferred. In the wake of the matrimonial proceeding and, especially, where the wife is turned out of her matrimonial home and is constrained to take shelter at her parental home, the wife finds it extremely inconvenient and onerous to effectively prosecute or defend a proceeding at a place other than her temporary or permanent residence. Often there is lack of logistical and financial support. Thus, the Courts lean in favour of the transfer of proceeding to a place which suits the convenience of the wife so that she could effectively prosecute or defend the proceeding.

6. In the case at hand, the Respondent No.1 has categorically asserted that the Applicant is neither temporarily nor permanently residing at Vita, where she is seeking the transfer of the Marriage Petition. The Applicant is permanently residing at Pune. In order to substantiate the said contention, the Respondent has placed on record documents which show that the Applicant is residing at Pune. Attention of the Court was invited to a communication dated 6th July 2021 addressed by the Applicant to the jurisdictional police which shows her residence at Pune. A postal envelope, in which notice was addressed to the Respondent No.1, showing the address of the Applicant at Pune was also pressed into service. Moreover, a Bonafide Certificate issued by Swargiya Rambhau Mhalgi Foundation School situated at Katraj, Pune clearly shows that the daughter of the Applicant and the Respondent

No.1 has been studying at the said school since the academic year 2022-2023. The correctness of the contents of the said Bonafide Certificate could not be controverted.

7. The learned Counsel for the Applicant would urge that the Respondent No.1 is banking upon the documents which indicate the position as it obtained in the past. There is no positive material to show that the Applicant is residing at Pune, though the Parents of the Applicant were residing at Pune.

8. I find it difficult to accede to aforesaid submission. It could not be shown that the daughter of the Applicant is enrolled in another school, at Vita. It is not the case of the Applicant that though the daughter is studying at Pune, where her parental relatives reside, she continues to stay within the local limits of the Civil Court at Vita. Having regard to the age of the daughter of the Applicant, it appears that the Applicant as well as her daughter are residing at Pune only.

9. Had the Applicant approached the Court with a positive case that she is residing at Pune and sought transfer of the Marriage Petition from Ahmednagar to Pune, different considerations could have come into play. Despite an opportunity having been provided by the Court to make her position clear, the Applicant persisted with the stand that she is not residing at Pune, which *prima facie* appears to be incorrect. Therefore,

the prayer for transfer of the Marriage Petition to the Court at Vita cannot be accepted.

10. Hence the following order:

The Application stands rejected.

No costs.

[N. J. JAMADAR, J.]