

Arun Sankpal

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

MISC. CIVIL APPLICATION NO. 479 OF 2024

Prajakta Mayuresh Alias Michael Devkule Alias ...Applicant
Prajakta Lala Dolare

Versus

Mayuresh Alias Michael Ashok Devkule ...Respondent

Mr. Manoj Bagal, for the Applicant.

CORAM: N. J. JAMADAR, J.

DATED: 7th FEBRUARY, 2025

ORDER:-

1. Heard the learned Counsel for the parties.
2. The applicant – wife has preferred this application seeking transfer of Marriage Petition No. 219 of 2023, filed by the respondent – husband, from the Court of Civil Judge, Senior Division, Sangli, to the Family Court at Solapur.
3. The marriage of the Applicant was solemnized with the respondent on 26th December 2018 at Pandharpur, District Solapur. They are blessed with a daughter.
4. In the wake of marital discord arising out of respondent's relationship outside marriage, the applicant shifted to Solapur. The applicant is working and residing at Solapur along with her daughter.

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5. The respondent has filed Petition, being Marriage Petition No. 219 of 2023, for dissolution of marriage before the Court of CJSD, Sangli.
6. The distance between Solapur and Sangli is about 200 kms. The applicant resides with her aged mother. The applicant has no logistical support to effectively defend the proceeding at Sangli.
7. The Bailiff has reported that the notice could not be served as the mother of the respondent refused to accept the notice and thereupon the notice has been served under Order V Rule 17 of the Code of Civil Procedure 1908, by pasting. Respondent chose not to appear.
8. Evidently the applicant is serving in police department at Solapur. She is in custody of a four year old daughter. The said daughter is enrolled in a school at Solapur. The distance between Solapur and Sangli is about 200 kms.
9. In these circumstances, the applicant would suffer inconvenience and hardship in defending the Marriage Petition No. 219 of 2023 pending on the file of CJSD, Sangli.
10. The principles which governs the exercise of power under Section 24 of the Code, especially in the matters arising out of matrimonial proceedings, were expounded by the Supreme Court in the case of **N.C.V. Aishwarya Vs A.S. Saravana Karthik Sha¹** in the following terms.

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“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.

10. Further, when two or more proceedings are pending in different Courts between the same parties which raise common question of fact and law, and when the decisions in the cases are interdependent, it is desirable that they should be tried together by the same Judge so as to avoid multiplicity in trial of the same issues and conflict of decisions.

11. The aforesaid enunciation governs the case at hand. I am, therefore, inclined to allow the Application.

12. Hence, the following order:

: O R D E R :

(i) The application stands allowed in terms of prayer clause (a).

- (ii) The Marriage Petition No. 219 of 2023 pending on the file of Civil Judge, Senior Division at Sangli, stands transferred to the Family Court at Solapur, for hearing and disposal in accordance with law.
- (iii) The learned Civil Judge, Senior Division at Sanlgi shall transfer the record and proceedings in Marriage Petition No. 219 of 2023 with such dispatch that it reaches the Family Court at Solapur, within a period of four weeks from the date of communication of this order.
- (iv) Application stands disposed.

No costs.

[N. J. JAMADAR, J.]