

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

MISC. CIVIL APPLICATION NO. 563 OF 2024

Priti Atish Mane ...Applicant

Versus

Atish Mahadev Mane ...Respondent

Mr. Jyotiram Yadav, for the Applicant.

CORAM: N. J. JAMADAR, J.

DATED: 7th MARCH, 2025

SANTOSH
SUBHASH
KULKARNI

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SANTOSH SUBHASH
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Date: 2025.03.10
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ORDER:-

1. Heard the learned Counsel for the applicant.
2. This is an application for transfer of Marriage Petition No.342 of 2023 from the Family Court at Sangli to the Court of Civil Judge, Senior Division at Kalyan.
3. The marriage of the applicant was solemnized with the respondent on 4th June, 2014. In the wake of the marital discord, the respondent has filed a petition for dissolution of marriage under Section 13(i)(a) and (iii) of the Hindu Marriage Act, 1955 before the Family Court at Sangli. The applicant is residing at Ambernath alongwith her parents. The distance between Ambernath and Sangli is about 400 kms. The applicant does not have the financial and logistical support to effectively defend the proceedings at Sangli.

4. Notice was issued to the respondent and an affidavit of service has been filed. The notice was returned with the remark ‘unclaimed’. It seems the respondent has deliberately not accepted the notice.

5. The averments in the application have gone uncontroverted. In any event, it is trite that in the matter of the transfer of the matrimonial proceedings, ordinarily, it is the convenience of the wife which commands precedence.

6. A useful reference, in this context, can be made to a decision of the Supreme Court in the case of *N.C.V. Aishwarya vs. A. S. Saravana Kartihk Sha*¹, wherein the factors which should weigh with the Court in deciding the prayer for transfer of the proceedings arising out of matrimonial disputes, were succinctly enunciated 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.”

1 2022 SCC Online SC 1199.

7. In the instant case, the elements of convenience and hardship tilt in favour of the applicant. I am, therefore, inclined to allow the application.

8. Hence, the following order:

: O R D E R :

- (i) The application stands allowed in terms of prayer clause (a).
- (ii) Marriage Petition No.342/2023 pending on the file of Family Court, Sangli, stands transferred to the Court of Civil Judge, Senior Division at Kalyan for hearing and disposal in accordance with law.
- (iii) The learned Judge, Family Court, Sangli, shall transfer the record and proceedings in Marriage Petition No.342/2023 with such dispatch that it reaches the Court of Civil Judge, Senior Division at Kalyan, within a period of four weeks from the date of communication of this order.
- (iv) Application stands disposed.
No costs.

[N. J. JAMADAR, J.]