



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
MISC. CIVIL APPLICATION NO.87 OF 2024**

Ankita Ganesh Siddamal ... Applicant
versus
Ganesh Uddanappa Siddamal ... Respondent

WITH
MISC. CIVIL APPLICATION (ST) NO.25195 OF 2024

Ganesh Uddanappa Siddamal and Ors. ... Applicants
versus
Ankita Ganesh Siddamal ... Respondent

Mr. Prashant Kamble for Applicant in MCA No.87 of 2024 and for Respondent in MCAST No.25195 of 2024.

Mr. Vikramjit Garewal with Ms. Maitreyee Garade i/by Mr. Ajinkya Udane, for Applicants in MCAST 25195 of 2024 and for Respondent in MCA No.87 of 2024.

CORAM: N.J.JAMADAR, J.

**CLOSED FOR ORDERS ON : 28 MARCH 2025
PRONOUNCED ON : 17 APRIL 2025**

ORDER :

1. These applications under Section 24 of the Code of Civil Procedure, 1908, seek transfer of the rival proceedings.
2. The marriage of the applicant in MCA No.87 of 2024 was solemnized with Respondent on 9 July 2023. Asserting that the marriage is null and void, the Respondent has filed a Petition being Petition No.1734 of 2023 before the Family Court at Pune for decree of nullity of marriage under Section 12(1)(c) and 12(1)(a) of the Hindu Marriage Act, 1955.

3. The Respondent asserts, inter alia, that the applicant was in a relationship with another person and suppressing the said fact, the marriage was solemnized with the Respondent, and the marriage has not been consummated.
4. The applicant, on her part, has filed proceedings under the Protection of Women from Domestic Violence Act, 2005, being PW/DVA/6 of 2024 against Respondent No.1 and his relatives, who are also the applicants in MCAST No.25195 of 2024.
5. The applicant wife has filed MCA No.87 of 2024 seeking transfer of Marriage Petition No.1734 of 2023 from the Family Court at Pune to the Court of Civil Judge, Sr. Division, Udgir.
6. The husband and his relatives have filed MCAST No.25195 of 2024 for transfer of the proceedings under the DV Act, 2005 being PW/DVA/6 of 2024 to the Family Court Pune for hearing and disposal along with the Marriage Petition No.1734 of 2023.
7. Affidavits in reply are filed in both the applications.
8. I have heard Mr. Prashant Kamble, learned Counsel for the wife, and Mr. Vikramjit Garewal, learned Counsel for the husband and his relatives, at some length.
9. Mr. Kamble, learned Counsel for the Applicant – wife submitted that the wife was constrained to take shelter at her parental home at Udgir. The

distance between Udgir and Pune is more than 300 kms. The applicant finds it extremely inconvenient to travel to Pune to attend the proceedings before the Family Court at Pune. The applicant has no means to effectively defend the proceedings at Pune. Therefore, having regard to the element of convenience of the wife, the Marriage Petition No.1734 of 2023 is required to be transferred to the Court of Civil Judge, Sr. Division, at Udgir.

10. Mr. Kamble placed reliance on the judgments of the Supreme Court in the cases of Rajani Kishor Pardeshi V/s. Kishor Babulal pardeshi¹, N.C.V.Aishwarya V/s. A.S.Saravana Karthik Sha² and the judgments passed by this Court in the cases of Devika Dhiraj Patil V/s. Dhiraj Sunil Patil³ and Poonam Manish Lath V/s. Manish Kashiprasad Lath⁴.

11. Mr. Garewal, learned Counsel for the husband, countered the submissions on behalf of the applicant. It was submitted that, in the case at hand, the socio-economic disadvantages which the women normally suffer, are not present. The applicant wife had travelled to and stayed alone at far off places. The wife was working at TCS, Bengaluru and Pune. She had stayed in Delhi and Hyderabad for the purpose of preparation for public services examinations. In fact, the wife had worked at Pune during the period 2021-2023. In these circumstances, it cannot be said that the wife would suffer

1 (2005) 12 SCC 237

2 AIR 2022 SC 4318

3 MCA No.167 of 2023 dt. 8 Sept. 2023

4 MCA No.81 of 2016 dt. 22 Nov. 2016

inconvenience on account of the continuation of the Marriage Petition and transfer of the DV proceedings to the Family Court at Pune.

12. Mr. Garewal further submitted that the husband is ready to bear the expenses of travel of the wife and the husband would pay a sum of Rs.10,000/- to the wife on the day she attends the proceedings before the Family Court at Pune. Mr. Garewal would urge that apart from the husband, his aged parents and brother have been implicated in the proceedings under the Domestic Violence Act, 2005. They would suffer extreme inconvenience and hardship if they are made to travel to Udgir to attend the proceedings before the Court of Magistrate.

13. It was further submitted that interest of orderly conduct of the proceedings would be advanced if the domestic violence proceedings are transferred to the Family Court at Udgir. Conversely, as Udgir does not have the Family Court, the marriage Petition would be required to be transferred to the Court of Civil Judge, Sr. Division. Therefore, to avoid duplication of the proceedings before different forums, it is necessary to transfer DV proceedings to the Family Court at Pune.

14. To lend support to these submissions, Mr. Garewal placed reliance on the judgment of the Supreme Court in the case of Delma Lubna Coelho V/s. Edmond Clint Feranandes⁵, the order of the Supreme Court in the case of

5 Transfer Petition (C) No.1475 of 2021 dt. 18 April 2023

Anindita Das V/s. Srijit Das⁶, the judgment of the Supreme Court in the case of Kanagalakshmi V/s. A. Venkatesan⁷, the orders of the Supreme Court in the cases of Neelam Bhatia V/s. Satbir Singh Bhatia⁸ and Gayatri Mohapatra V/s. Ashit Kumar Panda⁹.

15. Evidently, the discord stuck the lives of the parties under weeks of solemnization of their marriage. The husband filed a Petition for decree of nullity of marriage. The wife, on her part, has filed proceedings under the Protection of Women from Domestic Violence Act, 2005 at Udgir, Latur, wherein, apart from the husband, her in-laws have been implicated as Respondents. There does not seem much controversy over the fact that the wife is residing at her parental home. The distance between Udgir and Pune is more than 300 kms. Ordinarily, in the matter of transfer of matrimonial proceedings on account of socio-economic challenges which women generally face, it is the convenience of the wife that commands preference.

16. The decisions of the Supreme Court in the cases of Rajani Kishor Pardeshi V/s. Kishor Babulal pardeshi (supra) and N.C.V.Aishwarya V/s. A.S.Saravana Karthik Sha (supra), on which reliance was placed by Mr. Kamble, highlight the said principle. The observations of the Supreme Court in the case of N.C.V.Aishwarya V/s. A.S.Saravana Karthik Sha (supra), read

6 Transfer Petition (C) No.191 of 2005 dt. 29 August 2005

7 (2004) 13 SCC 405

8 Transfer Petition (C) No.357 of 2004 dt. 30 August 2004

9 Transfer Petition (C) No.273 of 2000 dt. 06 Nov. 2000

thus :

“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.”

17. Whether the case at hand warrants deviation from the aforesaid principle ? Mr. Garewal urged with tenacity that since the wife had travelled to and stayed at far off places in connection with her studies and professional commitments, it cannot be said that the wife would suffer inconvenience if she travels to Pune from Udgir. So far as the expenses of travel, the Respondent is willing to pay a sum of Rs.10,000/- for each appearance before the Court at Pune. Mr. Garewal invited attention of the Court to the

observations of the Supreme Court in the case of Gayatri Mohapatra V/s. Ashit Kumar Panda (supra), wherein the Supreme Court noted that the Petitioner therein had travelled from one place to another and, therefore, she cannot seek transfer on the ground that she will not be able to travel.

18. It is trite, convenience of the wife is preferred in the matter of transfer of matrimonial proceedings as socio-economic conditions of the women is more often than not adverse. Effective defence of the proceedings by a woman, who is rendered helpless and destitute, becomes a causality. The mere fact that before marriage, a woman has travelled to and worked at places, would not by itself be a ground to reject her prayer for transfer of the proceedings to the forum of her convenience. The Court cannot loose sight of the fact that apart from the element of convenience, the woman's right to have forum of her choice for redressing her grievances also matters.

19. In the case at hand, the parental home of the wife where, she claimed to be constrained to take shelter, on account of the marital discord, confers jurisdiction on the Court of the Magistrate to entertain, try and decide the proceedings under the DV Act, 2005. It is true, the in laws of the wife are also Respondents to the said application and they may be required to travel to Udgir. If the issue of relative inconvenience crops up, the convenience of the wife deserves to be preferred. The situation of a woman pre and post marriage cannot be weighed in the same scale. In the wake of the marital

discord, a woman cannot be expected to be in a position to travel for the purpose of attending the proceedings before the Court, with the same ease as before the marriage.

20. I am, therefore, not inclined to accede to the submission of Mr. Garewal that this is a fit case where the proceedings instituted by the wife are required to be transferred to the Court at Pune as the husband and his relatives would suffer more inconvenience.

21. Hence, the following order :

ORDER

- (i) MCA (St) No.25195 of 2024 stands rejected.
- (ii) MCA No.87 of 2024 stands allowed.
- (iii) Marriage Petition No.1734 of 2023 stands transferred from the Family Court, Pune to the Civil Judge, Sr. Division at Udgir, Latur for hearing and disposal in accordance with law.
- (iv) The learned Judge, Family Court, Pune shall transfer the record and proceedings in Marriage Petition No.1734 of 2023 with such dispatch that it reaches Civil Judge, Sr. Division, Udgir, within a period of four weeks from the date of communication of this order.
- (v) The Respondent-husband is at liberty to appear before the learned Civil Judge, Sr. Division, Udgir, through Videoconferencing. However, whenever the learned Civil Judge, Sr. Division, Udgir, considers it appropriate

and directs the Respondent to appear in person, the Respondent shall appear before the Civil Judge, Sr. Division at Udgir.

(vi) The Courts at Udgir are requested to post both the proceedings on the same date, as far as possible.

(vi) No costs.

(N.J.JAMADAR, J.)