

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

MISC. CIVIL APPLICATION NO. 119/2024

BHAGYASHRI RAJENDRA SHAMBHARKAR ..APPLICANT
VS
RAJENDRA PANDURANG SHAMBHARKAR ..RESPONDENT

Mr.Tushar Nikam i/b. Mr. Ganesh Bhujbal for the Applicant.

CORAM : RAJESH S. PATIL, J.

DATE : 13 OCTOBER, 2025

P.C. :-

- 1) None appears for the respondent though served.
- 2) By an order dated 26 September, 2025 this Court listed the matter today for final disposal, when nobody appeared on behalf of the respondent though he was duly served.
- 3) This is a transfer petition filed by the applicant-wife seeking transfer of the Section 9 petition filed under Hindu Marriage Act, for restitution of conjugal rights by the husband before the Civil Judge, Senior Division, Wardha to the Family Court at Belapur where the petition filed by her, seeking divorce is already pending for hearing.
- 4) It is the case of the applicant-wife that the distance between Wardha and Belapur is approximately 550 kms. Therefore, it

is inconvenient for her to travel and to attend the court proceedings on the same day. She does not have anyone to accompany her while travelling to Wardha to attend the court proceedings. She is working in Bank of India, Airoli Branch, Thane. Therefore, it is difficult for her to travel to Wardha by taking leave from her office.

5) Learned advocate for the applicant further submitted that both the proceedings are at initial stage and the evidence has not started. Therefore, both the proceedings can be clubbed together and be heard by one and the same judge. He further submitted that the respondent is a businessman. Due to marital discord, the applicant and respondent are staying separately.

6) The Hon'ble Supreme Court in case of ***N.C.V. Aishwarya vs. A.S.Saravana Karthik Sha***, reported in ***2022 SCC OnLine SC 1199*** has held that the convenience of the wife has to be seen for the transfer proceedings. Paragraph no.9 of the said judgment reads 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.

(Emphasis supplied)

7) Considering the law laid down by the Hon'ble Supreme Court in case of *N.C.V. Aishwarya* (supra) and considering the facts of the present case, where the wife is staying in Navi Mumbai and the proceedings are filed at Wardha, which is around 550 kms away and there is nobody to accompany the applicant to attend the court proceedings at Wardha, hence according to me ground is made out to allow the present Miscellaneous Civil Application with the permission to the parties to appear through Video conferencing.

8) **Miscellaneous Civil Application stands allowed in terms of prayer clause (a).** The said prayer clause (a) reads as under :-

(a) This Hon'ble Court, be please to transfer the Hindu Marriage Petition No. 196 of 2023 pending before the Ld.Civil Judge (S.D.), Vardha filed by the Respondent/Husband to the Ld. Family Court, CBD Belapur, Navi Mumbai.

9) The proceedings at Hindu Marriage Petition No. 196 of 2023 pending before the Civil Judge, Senior Division, Wardha, shall be transferred to the Family Court at CBD, Belapur within a period of

four weeks from today.

10) Both the parties are granted permission to attend the court proceedings through video conferencing. However, if the Judge hearing the matter is of the opinion that their personal appearance is necessary, the parties shall be required to attend the proceedings in person before the Court.

11) Hindu Marriage Petition No. 1470 of 2023 pending before the Civil Judge, Senior Division, CBD Belapur, Navi Mumbai be tagged and heard alongwith Hindu Marriage Petition No. 196 of 2023 by one and the same Judge.

12) The hearing of the petitions is expedited. The parties will not seek unnecessary adjournment and will co-operate with the Court for early disposal of the Petitions.

[RAJESH S. PATIL, J.]