

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

MISCELLANEOUS CIVIL APPLICATION NO. 219 OF 2024

Magdumma Mohsin Patvegar

..Applicant

Versus

Mohsin Usangani Patvegar

..Respondent

Mr. Viraj V. Kadam i/b. Ms. Nitin Mayekar, Advocates, for the Applicant

CORAM : RAJESH S. PATIL, J.

DATE : 15.10.2025

P. C.

1. None appears for the Respondent when the matter is called out.
2. Office remarks show that the Respondent has been duly served.
3. On 03.10.2025, the following Order was passed.

“1. None appears for the Respondent when the matter is called out.

2. Office noting shows that the sole Respondent has been duly served. Mr. Kadam, learned Counsel for the Applicant tenders an Affidavit of service dated 25.09.2025 which mentions that the Respondent has been served by speed post on 23.09.2025 at 11.44 a.m..

3. In order to give one more opportunity to the Respondent to appear in the present proceedings and make submissions, stand over to 15.10.2025.

4. It is the Applicant's case that she is staying at Badlapur along with her parents and one son, who is paralyzed from the right side. The Respondent is staying at Kolhapur and has filed the proceedings before the

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Family Court at Kolhapur. It is submitted that it would be inconvenient for the wife to travel to Kolhapur to attend the proceedings along with her son, aged 7 years cannot take care of himself.

5. *In the meantime, till the next date of hearing, there shall be ad-interim relief in terms of **prayer clause (b).**”*

4. The Supreme Court in the case of ***N. C. V. Aishwarya vs. A. S. Sarvana Karthik Sha***, reported in ***2022 SCC OnLine SC 1199*** has held that considering transfer proceedings, convenience of the wife has to be taken into consideration. Paragraph 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 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)

5. Considering the law laid down by the Supreme Court in the case of ***N. C. V. Aishwarya (Supra)*** and considering the fact that the Applicant – wife is homemaker and staying with her parents. Her son is

paralyzed from the right side. Her husband's native place is Kolhapur and he is residing at Kolhapur. His working place is Pune. He has filed divorce proceeding at Kolhapur of which transfer has been sought by the wife. The distance between Kolhapur and Kalyan is 550 Km.

6. Considering these facts, I am convinced that the Application deserves to be allowed.

7. The Miscellaneous Civil Application is allowed in terms of **prayer clause (a)**.

8. The learned Judge, CJSD, Kolhapur is directed to transfer R.C.S.No. 40 of 2023 to the learned Judge, CJSD, Kalyan. The hearing of the same is expedited.

(RAJESH S. PATIL, J.)