

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

MISC. CIVIL APPLICATION NO. 246 OF 2024

Priyanka Suryakant Bhosale ...Applicant
Versus
Suryakant Bhausahab Bhosale ...Respondent

Mr. Ajit Hon, for the Applicant.
Mr. Anirudh Rote, for the Respondent.

CORAM: N. J. JAMADAR, J.
DATED: 14th FEBRUARY, 2025

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ORDER:-

1. Heard the learned Counsel for the parties.
2. The applicant – wife has preferred this application seeking transfer of HMP/146/2023 from the Court of Civil Judge, Senior Division at Karmala, District Solapur, to the Court of Civil Judge, Senior Division at Rahata, District Ahmednagar.
3. The marriage of the applicant was solemnized with the respondent on 23rd January, 2023. In the wake of the marital discord, the applicant has been constrained to reside at her parental home at Rahata. The applicant has filed a proceeding under the Protection of Woman from Domestic Violence Act, 2005, being Application No.68 of 2023, before the Court of Magistrate of Rahata. The respondent, on his part, has filed a

petition for dissolution of marriage under Section 13(1)(ia) of the Hindu Marriage Act, 1955 in the Court of Civil Judge, Senior Division at Karmala, District Solapur, being HMP/146/2023.

4. The applicant asserts that the applicant is residing with her aged parents. The applicant has no source of income. The distance between Rahata and Karmala is about 200 kms. The applicant finds it extremely inconvenient and onerous to attend the proceeding at Karmala.

5. The respondent resisted the application by filing an affidavit-in-reply.

6. The learned Counsel for the respondent submitted that the respondent has not been served with the copy of the Domestic Violence petition. There is an element of settlement and, therefore, the proceeding may not be transferred.

7. Evidently, the applicant is residing at Rahata, which is at a distance of about 200 kms. from Karmala. The applicant seems to be dependent on her parents. The applicant does not seem to have the financial and logistical support to effectively defend the proceeding at Karmala, District Solapur.

8. It is trite that in the matter of transfer of matrimonial proceedings, ordinarily, it is the convenience of the wife which commands precedence.

9. 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 in, in deciding the prayers 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.”

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

11. Hence, the following order:

: O R D E R :

- (i) The application stands allowed in terms of prayer clause (a).
- (ii) HMP/146/2023 pending on the file of Civil Judge, Senior Division, Karmala, District Solapur, stands transferred to

1 2022 SCC Online SC 1199.

the Court of Civil Judge, Senior Division, Rahata, District Ahmednagar, for hearing and disposal in accordance with law.

- (iii) The learned Civil Judge, Senior Division at Karmala, Solapur, shall transfer the record and proceedings in HMP/146/2023 with such dispatch that it reaches the Court of Civil Judge, Senior Division at Rahata, Ahmednagar, within a period of four weeks from the date of communication of this order.
- (iv) The learned Civil Judge, Senior Division at Rahata, is requested to first explore the possibility of an amicable resolution of the dispute.
- (v) Application stands disposed.

No costs.

[N. J. JAMADAR, J.]