

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
MISCELLANEOUS CIVIL APPLICATION NO. 251 OF 2024**

Akshara Rajkumar Sale ..Applicant

Versus

Rajkumar Shivaji Sale ...Respondent

Mr. Sachin Bhavar, for the Applicant.

None for the Respondent.

CORAM: N. J. JAMADAR, J.

DATED : 21st FEBRUARY 2025

P.C.:

1. None present for the Respondent.
2. Mr. Bhavar, learned Counsel for the Applicant, seeks leave to amend the Application.

Leave granted. Necessary amendment be carried out within a period of one week. Reverification dispensed with.

3. This is an Application for transfer of Marriage Petition (A) No. 682 of 2021 pending on the file of Family Court at Solapur to Court of Civil Judge, Senior Division at Indapur, District Pune.

4. The marriage of the Applicant was solemnized with the Respondent on 6th June 2015. They were blessed with a son. The Applicant and her son were ousted of the matrimonial home on 22nd

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September 2018 and, since then, the Applicant has been residing at village Kumbharvadi, Taluka Indapur, District Pune.

5. The Applicant has instituted a proceeding under the Protection of Women from Domestic Violence Act 2005 (“the DV Act”) being Criminal MA. No. PWDVA No. 418 of 2018 before the Court of Magistrate at Indapur. The Respondent has, in turn, filed a Petition being Petition (A) No. 682 of 2021, for dissolution of marriage under Section 13(1)(i-a) of the Hindu Marriage Act 1955, before the Family Court at Solapur.

6. The Applicant is dependent on her parents. The Applicant has no source of income. The Applicant finds it extremely inconvenient to defend the proceedings before the Court at Solapur. Hence this Application.

7. The Respondent has resisted the Application by filing Affidavit in Reply.

8. It appears that the Applicant is residing at her parental home along with her parents. The Applicant has instituted a proceeding under DV Act at Indapur. Her seven year old son is dependent on the Applicant. It appears that the Applicant has no logistical and financial support to effectively defend the proceeding before the Family Court at Solapur..

9. The principles which govern the exercise of power under Section 24 of the Code, especially in the matters arising out of matrimonial

proceedings, were expounded by the Supreme Court in the case of **N.C.V. Aishwarya Vs A.S. Saravana Karthik Sha¹** in the following terms.

“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.

10. The aforesaid enunciation governs the case at hand. I am, therefore, inclined to allow the Application.

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11. Hence, the following order:

: O R D E R :

(i) The Marriage Petition (A) No. 682 of 2021 pending on the file of Family Court at Solapur, stands transferred to the Court of CJSD, Indapur, District Pune, for hearing and disposal in accordance with law.

(ii) The learned Judge, Family Court at Solapur shall transfer the record and proceedings in Marriage Petition (A) No. 682 of 2021 with such dispatch that it reaches the CJSD Court, Indapur, District Pune, within a period of four weeks from the date of communication of this order.

Application disposed.

[N. J. JAMADAR, J.]