

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

MISC. CIVIL APPLICATION NO. 259 OF 2024

Priya Hitesh Bhute ...Applicant
vs.
Hitesh Rajesh Bhute ...Respondent

Ms. Pranita Hingmire, for the Applicant.
Mr. Shantanu Kadam, for the Respondent.

CORAM : N. J. JAMADAR, J.
DATE : MARCH 28, 2025

P.C:

1. Heard the learned counsel for the applicant.
2. This is an application under section 24 of the Code of Civil Procedure, 1908 for transfer of Marriage Petition No. 65 of 2023 from the Court of Civil Judge Senior Division, Vadgaon to the Court of learned Civil Judge Senior Division at Bhusaval.
3. The marriage of the applicant was solemnized with the respondent on 15th February, 2019. In the wake of marital discord the respondent-husband has filed a petition for dissolution of marriage, being HMP No. 65 of 2023, before the Court of Civil Judge, Senior Division, Vadgaon. The applicant has filed a proceeding under Protection of Women From Domestic Violence Act, 2005 being, D.V. Application No. 59 of 2023, before the court of learned Magistrate, Bhusaval. The applicant has also filed a petition

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for restitution of conjugal rights under section 9 of the Hindu Marriage Act, being HMP No. 227 of 2023, before the learned Magistrate, Bhusaval.

4. It is asserted that the distance between Vadgaon to Bhusaval is 500 km. The applicant has no means to effectively defend the proceeding at Vadgaon. Two proceedings are already pending before the Court at Bhusaval. Therefore, the Marriage Petition No. 65 of 2023 be also transferred to the Court of Civil Judge Senior Division at Bhusaval.

5. An affidavit in reply is filed on behalf of the respondent.

6. The learned counsel for the respondent submitted that the applicant has no business to stay at Bhusaval. Her parents were residing at Panvel. The applicant is staying with her aunt at Bhusaval. The proceedings at Bhusaval have been instituted after the respondent filed the petition for dissolution of marriage before the Court at Vadgaon.

7. I have perused the material on record.

8. It cannot be controverted that, at present, the applicant is residing at Bhusaval. The respondent can not contend that the applicant has no business to stay at Bhusaval. Bhusaval does not seem to be a casual residence of the applicant, as the applicant has instituted two proceedings at Bhusaval. Having regard to the socio-

economic condition of the applicant, which emerges from the record, the Court finds that the applicant would suffer extreme inconvenience and hardship in the event the petition for dissolution of marriage is tried before the Court at Vadgaon. Even otherwise, the petition for conjugal rights is filed before the Court at Bhusaval. It may be expedient in the interest of justice that the petition for restitution for conjugal rights as well as the petition for dissolution of marriage are heard and decided by one and the same Court. It would also obviate the possibility of conflicting decisions.

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 Sha**¹ 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

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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 pronouncement governs the facts of the case at hand with equal force. Therefore, I am inclined to allow the application.

Hence, the following order.

ORDER

1] Application stands allowed.

2] Marriage Petition No. 65 of 2023 stands transferred from the Court of Civil Judge Senior Division, Vadgaon to the Court of Civil Judge Senior Division at Bhusaval for hearing and disposal in accordance with law along with Hindu Marriage Petition No. 227 of 2023.

3] The learned Judge, Family Court, Vadgaon shall transfer the record and proceedings in Marriage Petition No. 65 of 2023 with such dispatch that it reaches the Court of Civil Judge Senior Division, Bhusaval within a period of four weeks from the date of communication of this order.

4] The respondent is at liberty to appear through video conferencing. However, whenever the learned Judge, Bhusaval considers it appropriate and directs the

respondent to appear in person, the respondent shall
appear in person.

Application disposed.

(N. J. JAMADAR, J.)