

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION

MISC. CIVIL APPLICATION NO. 285 OF 2024

Diksha Vilas Pandit ...Applicant

**Versus**

Ashish Shantwan Shejwal ...Respondent

Mr. Eknath Dhokale, for the Applicant.

Mr. Abhishek Kulkarni, for the Respondent.

**CORAM: N. J. JAMADAR, J.**

**DATED: 14<sup>th</sup> 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/A100/2024, filed by the respondent - husband, for the dissolution of marriage, from the Family Court at Aurangabad to the Court of Civil Judge, Senior Division at Kalyan.
3. The marriage of the applicant was solemnized with the respondent on 8<sup>th</sup> November, 2022 at Aurangabad. In the wake of the marital discord, the applicant has been constrained to reside at her parental home at Badlapur since 18<sup>th</sup> December, 2022. The applicant has filed a proceeding under the Protection of Woman from Domestic Violence Act, 2005 before the Court of

Magistrate at Ulhasnagar. The respondent, on his part, has filed a petition for dissolution of marriage before the Family Court at Aurangabad.

4. The applicant seeks transfer of the proceeding on the ground that the applicant is residing with her parents at Badlapur. The applicant has no source of income. The distance between Badlapur and Aurangabad is almost 350 kms. The applicant would find it extremely inconvenient and onerous to attend the proceeding at Aurangabad. The applicant has no means to effectively defend the proceeding at Aurangabad.

5. The learned Counsel for the respondent resisted the application. The learned Counsel for the respondent submitted that the respondent is posted as a Junior Engineer in Water Conservation Department, Aurangabad. Having regard to the nature of duties of the respondent, it is not possible for the respondent to leave his place of posting, even for a day. Therefore, if the proceeding is transferred to Kalyan, the respondent would suffer grave prejudice.

6. Evidently, the applicant is residing at Badlapur with her parents. 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 Aurangabad. The

distance between Badlapur and Aurangabad is, in a sense, prohibitive. It would be extremely inconvenient and onerous for the applicant to attend the proceedings at Aurangabad.

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

8. 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*<sup>1</sup>, 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.”

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

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**1** 2022 SCC Online SC 1199.

10. Hence, the following order:

**: O R D E R :**

- (i) The application stands allowed in terms of prayer clause (a).
- (ii) HMP/A100/2024, pending on the file the Family Court at Aurangabad, stands transferred to the Court of Civil Judge, Senior Division at Kalyan, for hearing and disposal in accordance with law.
- (iii) The learned Judge, Family Court at Aurangabad, shall transfer the record and proceedings in HMP/A100/2024 with such dispatch that it reaches the Court of Civil Judge, Senior Division at Kalyan, within a period of four weeks from the date of communication of this order.
- (iv) The respondent is at liberty to appear before the Court of Civil Judge, Senior Division, Kalyan, through Video Conferencing. However, if the learned Civil Judge considers it appropriate and directs the respondent to appear on a particular date, the respondent shall appear in-person.
- (v) Application stands disposed.

No costs.

**[N. J. JAMADAR, J.]**