

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

MISC. CIVIL APPLICATION NO.316 OF 2024

Sheetal Mahesh Patil

...Applicant

vs.

Mahesh Vitthal Patil

...Respondent

Mr. Rushikesh Kadam, for the Applicant.

Mr. Vishal Ghosalkar, for the Respondent.

VISHAL
SUBHASH
PAREKAR

Digitally signed by
VISHAL SUBHASH
PAREKAR
Date: 2025.02.21
20:05:19 +0530

CORAM : N. J. JAMADAR, J.

DATE : FEBRUARY 7, 2025

P.C:

1. This is an application under section 24 of the Code of Civil Procedure, 1908 for transfer of Hindu Marriage Petition No. 61 of 2024 from the Court of Civil Judge Senior Division, Gadhinglaj to the Court of Civil Judge Senior Division, Satara.

2. The marriage of the applicant was solemnized with the respondent on 17th May, 2019. They are blessed with a daughter on 14th November, 2020. In the wake of marital discord, the applicant was constrained to take shelter at her parental home at Satara. Proceedings ensued. The respondent filed Petition No. 166 of 2022 for restitution of conjugal rights under section 9 of the Hindu Marriage Act, 1956 (the Act, 1956) for the custody of the child. By an order dated 26th February, 2024 in MCA No. 485 of 2022 this Court was persuaded to transfer the proceedings to the Court at Satara.

3. The respondent has now instituted a petition for dissolution of marriage, being HMP No. 61 of 2024, under section 13(1)(i-a) (i-b) of the Act, 1956. The applicant is thus constrained to again move this Court for transfer of the said petition from the Court of Civil Judge Senior Division, Gadhinglaj to the Court of Civil Judge Senior Division, Satara.

4. Mr. Vishal Ghosalkar, the learned counsel for the respondent, resisted the prayer for transfer. It was submitted that the convenience of the respondent also deserves to be taken into account. Reliance was placed on an order passed by this Court in the case of **Ketaki Prathamesh Salekar vs. Prathamesh Ashok Salekar in MCA No. 81 of 2020 Dt..16/03/2020** wherein this Court had declined to transfer the matrimonial proceeding, on the ground that the applicant-wife therein had to look after the child and she had to travel to Pune from Mumbai to attend the proceeding. In the facts of the case, the Court was of the view that since respondent was willing to reimburse the expenses of travel, there was no justification in seeking transfer of the proceeding.

5. It is trite that an application for transfer of the proceeding is required to be considered in the light of the facts peculiar to the parties to the proceeding. A decision in one set of facts cannot be readily imported to another. One additional fact or absence thereof makes a world of difference.

6. In the case at hand, as noted above, pursuant to an order passed by this Court two proceedings have already been transferred from the Court Civil Judge Senior Division, Gadhinglaj to the Court of Civil Judge Senior Division, Satara. The reasons of inconvenience and hardship, which weighed with this Court, in transferring two earlier proceedings, still hold good.

7. It is well recognized that, in the matter of transfer of the matrimonial proceedings, ordinarily, the convenience of the wife commands preference. 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 interdependent,

1 2022 LiveLaw (SC) 627

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.”

8. As the aforesaid pronouncement is on all four with the facts of the case in hand, and since two proceedings have already been transferred from the Court at Gadhinglaj to the Court at Satara, it would be expedient in the interest of justice that the subject petition, subsequently filed by the respondent, is also transferred to the Court at Satara.

Hence, the following order.

ORDER

- 1] Application stands allowed in terms of prayer clause (a).
- 2] Marriage Petition No. 61 of 2024 stands transferred from the Court of Civil Judge Senior Division, Gadhinglaj to the Court of Civil Judge Senior Division, Satara for hearing and disposal in accordance with law, along with Marriage Petition No. 166 of 2022
- 3] The learned Civil Judge, Gadhinglaj shall transfer the record and proceedings in Marriage Petition No. 61 of 2024 with such dispatch that it reaches the Court of CJSD at Satara within a period of four weeks from the date of communication of this order.

Application disposed.

(N. J. JAMADAR, J.)