

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
MISC. CIVIL APPLICATION NO.370 OF 2024**

Vishranti Prafull Kadam nee
Vishranti Vilasrao Devkar
versus

... Applicant

Praful Ravindra Kadam

... Respondent

Mr. Laxman Kalel, for Applicant.

CORAM: N.J.JAMADAR, J.

DATE : 31 JANUARY 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 HMP No.A-351 of 2024 pending on the file of Family Court, Belapur to the Court of Senior Division, Vaduj.
3. By an order dated 30 August 2024, notice was issued to the Respondent. Office report indicates that the notice has been duly served. None appears for the Respondent.
4. The marriage of the Applicant was solemnized with the Respondent on 4 December 2016. They are blessed with a daughter – Dnyanada. In the wake of the marital discord, the applicant was constrained to take shelter at her parental home at Dahivadi, Tal. Man, Satara. The applicant had filed proceedings under the Protection of Women from Domestic Violence Act, 2005 before the Court of J.M.F.C. at Dahivadi. The Respondent, on his part,

has filed a Petition for dissolution of marriage under Section 13(1), (ia) and (ib) of the Hindu Marriage Act, before the Family Court at Belapur. The applicant has no means to travel to Belapur from Dahivadi. The applicant is suffering from cancer. It would be extremely inconvenient and onerous for the applicant to attend the proceedings at Belapur.

5. 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, it is desirable that they should be tried together

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by the same Judge so as to avoid multiplicity in trial of the same issues and conflict of decisions.”

6. The averments in the application have gone uncontroverted. It appears that the applicant is residing at her parental home. The distance between Dahivadi and Belapur is prohibitive. Prima facie, it appears that the applicant has no means to effectively defend the proceedings at Belapur. The applicant would suffer inconvenience and hardship, if the proceeding is tried at Belapur.

7. In view of the above, it would be expedient in the interest of justice to transfer HMP No.A-351 of 2024 pending on the file of Family Court at Belapur to the Civil Judge, Sr. Division, Vaduj, for hearing and disposal in accordance with law.

8. Hence, Hence following order:

ORDER

(i) Application stands allowed in terms of prayer clause

(b).

(ii) Hindu Marriage Petition No.A-351 of 2024 stands transferred from the Family Court, Belapur to the Court of learned Civil Judge, Senior Division, Vaduj, for hearing and disposal in accordance with law.

(iii) The learned Judge, Family Court, Belapur, shall transfer the record and proceedings in Hindu Marriage

Petition bearing A-351 of 2024 with such dispatch that it reaches the Court of Civil Judge, Sr. Division, Vaduj, within a period of four weeks from the date of communication of this order.

Application disposed.

(N.J.JAMADAR, J.)