

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

MISCELLANEOUS CIVIL APPLICATION NO.376 OF 2024
WITH
MISCELLANEOUS CIVIL APPLICATION NO.406 OF 2024

Mrs. Swara Karn Shah Nee Ms.
Manjushri Divekar

... Applicant

V/s.

Mr. Karn Vikram Shah

... Respondent

None for the Applicant.
None for the Respondent.

CORAM : RAJESH S. PATIL, J.

DATED : 19th September 2025

P.C.:

MISCELLANEOUS CIVIL APPLICATION NO.376 OF 2024

1. This is a transfer application filed by the Applicant-Wife of Respondent seeking transfer of the application filed by the husband for obtaining custody of the minor child which is pending before the District Court at Thane, to Family Court at Bandra, Mumbai.

2. It is the case of the Applicant that the Respondent-Husband is staying in Canada and out of the wedlock of Applicant with Respondent, a daughter was born, who is now aged 7 years, and is staying with the Applicant in Mumbai. The Applicant has filed a

complaint under Section 498-A of Indian Penal Code, before the Judicial Magistrate First Class. The Applicant's father is a senior citizen and is the only surviving parent of the Applicant. The Applicant is a housewife and the Respondent who is staying and working in Canada earns Rs. 6,00,000/- per month as his salary. It is extremely difficult for Applicant to travel to Thane for attending the proceedings. The Respondent has sought a divorce proceedings before the Family Court at Bandra, therefore it will be convenient for the Applicant to transfer the husband's custody petition to Family Court at Bandra.

3. None appears for the Respondent even when the matter is called out the second time, though Vakalatnama has been filed.

4. Supreme Court in the Judgment of *N.C.V Aishwarya Vs. A. S. Saravana Karthik Sha* reported in *2022 SCC OnLine SC 1199* has held that the convenience of the wife has to be looked into while hearing the transfer application. Para 9 of the said Judgment which read 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.

(Emphasis Supplied)

5. Considering the law as laid down by the Supreme Court and the fact that the Respondent husband is working at Canada no inconvenience will be caused to him. Therefore according to me, a case is made out by the Applicant-Wife to allow the Miscellaneous Civil Application filed by her and as a result the Miscellaneous Civil Application filed by the husband for transfer of proceedings from Family Court at Bandra to District Court at Thane is bound to be rejected.
6. Miscellaneous Civil Application No.376 of 2024 stands allowed in terms of **prayer clause (b)**.
7. Miscellaneous Civil Application No.406 of 2024 stands **rejected**.
8. The District Court Thane, shall within a period of four weeks from today transfer the papers and proceedings of Civil M.A. Application bearing No.336 of 2023 from District Court Thane to the Family Court at Bandra.
9. On the transfer of Civil M.A. Application bearing No.336 of 2023 the same be tagged along with petition bearing No.639 of 2021, and both the petitions to be heard together on merits.
10. All concerns to act on an authenticated copy of this order.

(RAJESH S. PATIL, J.)