

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

MISC. CIVIL APPLICATION NO. 389 OF 2024

Vasudha Yogesh Powar ...Applicant

Versus

Yogesh Sadashiv Powar ...Respondent

SANTOSH
SUBHASH
KULKARNI

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Mr. Nikhil Hire, for the Applicant.

Ms. Jaya Bagwe, for the Respondent.

CORAM: N. J. JAMADAR, J.

DATED: 9th MAY, 2025

PC:-

1. Heard the learned Counsel for the parties.

Leave to amend.

2. Necessary amendment be carried out forthwith.

3. Reverification dispensed with.

4. This is an application for transfer of HMP/161/2023 from the Family Court at Kolhapur to the Court of Civil Judge, Senior Division at Malegaon, District Nashik.

5. The marriage of the applicant was solemnized with the respondent on 24th December, 2021. In the wake of the marital discord, the applicant was constrained to reside at her parental home at Malegaon, District Nashik. The applicant has filed a proceeding under the Protection of

Woman from Domestic Violence Act, 2005, being PWDV Application No.111/2023, before the Court of Magistrate at Malegaon. The applicant has also lodged a report leading to registration of CR No.131 of 2023, for the offences punishable under Sections 498A, 323, 504, 506 read with Section 34 of the Indian Penal Code, 1860 ("the Code") against the respondent and his relatives. The respondent has, in turn, filed a petition for restitution of conjugal rights before the Family Court, Kolhapur. Having regard to the distance between Malegaon and Kolhapur, the applicant finds it extremely inconvenient and onerous to attend the proceeding at Kolhapur.

6. The respondent resisted the application.

7. Evidently, two proceedings, instituted at the instance of the applicant, are pending before the Courts at Malegaon. The distance between Kolhapur and Malegaon is more than 600 kms. The applicant does not seem to have the financial and logistical support to effectively defend the marriage petition at Kolhapur. It is trite that in the matter of transfer of matrimonial proceedings, ordinarily, it is the convenience of the wife which commands precedence.

8. The elements of inconvenience and hardship tilt in favour of the applicant. The inconvenience likely to be caused to the respondent can be taken care of by granting liberty to the respondent to appear before the Court of Civil Judge at Malegaon through Video Conferencing. I am, therefore, inclined to allow the application.

9. Hence, the following order:

: O R D E R :

- (i) The application stands allowed.
- (ii) HMP/161/2023 pending on the file of Family Court at Kolhapur stands transferred to the Court of Civil Judge, Senior Division, Malegaon, for hearing and disposal in accordance with law.
- (iii) The learned Judge, Family Court at Kolhapur, shall transfer the record and proceedings in HMP/161/2023 with such dispatch that it reaches the Court of Civil Judge, Senior Division at Malegaon, within a period of four weeks from the date of communication of this order.
- (iv) The respondent is at liberty to appear before the Civil Judge, Senior Division, Malegaon, through Video Conferencing. However, whenever the learned Judge

considers it appropriate and directs the respondent to appear in-person, the respondent shall appear before the Court.

(v) Application stands disposed.

No costs.

[N. J. JAMADAR, J.]