

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

MISC. CIVIL APPLICATION NO.398 OF 2024

Kajal Suresh Pal ...Applicant

vs.

Suresh Ramsundar Pal ...Respondent

VISHAL
SUBHASH
PAREKAR

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VISHAL SUBHASH
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Mr. Ajay Khandalekar (through VC), for the Applicant.

Mr. Gauresh Khandalekar, for the Respondent.

CORAM : N. J. JAMADAR, J.

DATE : FEBRUARY 28, 2025

P.C:

1. Heard the learned counsel for the parties.
2. This is an application under section 24 of the Code of Civil Procedure, 1908 for transfer of Marriage Petition No. 1653 of 2022 from the Court of Civil Judge Senior Division, Kalyan to the Court of Civil Judge Senior Division, Shivaji Nagar, Pune.
3. The marriage of the applicant was solemnized with the respondent on 21st November, 2017. In the wake of marital discord, the applicant has been constrained to reside separately at her parental home at Kalewadi (Pimpri), Pune. The applicant and the respondent are blessed with a daughter, who is five years of age.
4. The respondent has instituted Marriage Petition No. 1653 of 2022 for dissolution of marriage, under Hindu Marriage Act, 1955 before the C.J.S.D., Kalyan. The applicant has, in turn, filed a proceeding under the Protection of Women from Domestic Violence

Act, 2005, being P.W.D.V. Application No. 121 of 2023, before the Court of learned Magistrate at Pimpri. The applicant has also lodged F.I.R. No. 1035 of 2022 for the offences punishable under section 498-A, 323, 504 read with 34 of I.P.C. against the respondent and his relatives at Vakad police station.

5. The learned counsel for the respondent resisted the prayer for transfer. It was submitted that the applicant has never appeared before the Civil Court at Kalyan and an ex parte order has been passed against the applicant. It was further submitted that the applicant has instituted the proceeding at Pune only after the respondent filed the Marriage Petition at Kalyan. Therefore, there is no ground for the transfer of the Marriage Petition from the Court of Civil Judge Senior Division, Kalyan to the Court of Civil Judge Senior Division at Shivaji Nagar, Pune.

6. Evidently, the applicant is residing at Pune along with her five years old daughter. The applicant does not seem to have the logistical and financial support to effectively defend the proceeding at Kalyan. Two other proceedings, filed by the applicant, are subjudice before the Courts at Pune. In these circumstances, the assertions on behalf of the applicant that the applicant would find it extremely inconvenient to effectively defend the proceeding at Kalyan, is justifiable.

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

8. The aforesaid enunciation of law governs the facts of the case at hand. Thus, the application deserves to be allowed.

Hence, the following order.

ORDER

1] Application stands allowed in terms of prayer clause (b).

2] The Marriage Petition No. 1653 of 2022 stands transferred from the Court of Civil Judge Senior Division, Kalyan to the

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Court of Civil Judge Senior Division at Shivaji Nagar, Pune for hearing and disposal in accordance with law.

3] The learned Civil Judge, Kalyan shall transfer the record and proceedings in Marriage Petition No. 1653 of 2022 with such dispatch that it reaches the Court of Civil Judge, Shivaji Nagar, Pune within a period of four weeks from the date of communication of this order.

Application disposed.

(N. J. JAMADAR, J.)