



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
MISC. CIVIL APPLICATION NO.413 OF 2024**

Pallavi Shashidhar Patil ... Applicant
versus
Shashidhar Shivagounda Patil and Anr. ... Respondents
WITH
MISC. CIVIL APPLICATION NO.4 OF 2025

Shashidhar Shivagouda Patil ... Applicant
versus
Pallavi Sangramsinh Ghataghe ... Respondent

Mr.Vivek V. Salunke, for Applicant in MCA No.413 of 2024.
Mr. Dushyant Purekar, for Applicant in MCA No.4 of 2025 and for Respondent
in MCA No.413 of 2024.

CORAM: N.J.JAMADAR, J.

DATE : 28 FEBRUARY 2025

P.C.

1. Heard the learned Counsel for the parties.
2. These cross applications are filed for transfer of the proceedings instituted by the Respondents before the jurisdictional courts.
3. The Applicant-wife in MCA No.413 of 2024 seeks transfer of Petition No.A-2851 of 2023 filed by the Respondent-husband for a decree of nullity of marriage before the Family Court at Bandra, Mumbai to the Family Court at Kolhapur.
4. The marriage of the applicant was solemnized with the respondent on 13 February 2021. In the wake of the allegation that at the time of

solemnization of the marriage, the applicant's spouse was living, disputes arose and the Respondent instituted a Petition for a decree of nullity of marriage before the Family Court at Bandra. The applicant, on her part, has filed an application for award of maintenance being Complaint No.34 of 2024 before the Family Court at Kolhapur under Section 144 of the Bharatiya Nagrik Suraksha Sanhita, 2023. The husband has, thus, filed MCA No.4 of 2025 seeking transfer of the said complaint No.34 of 2024 from the Family Court at Kolhapur to the Family Court at Bandra.

5. The Respondents in each of the applications have opposed the application by filing affidavits in reply.

6. I have heard Mr. Salunke, learned Counsel for the Applicant-wife, and Mr. Purekar, learned Counsel for the Respondent-husband, at some length.

7. Mr. Purekar, learned Counsel for the Respondent-husband, submitted that the application for transfer of Marriage Petition is malafide. Attention of the Court was invited to an order passed in Petition No.A-133 of 2019 dated 8 October 2021 passed by the Family Court, Kolhapur, whereby the Petition for restitution of conjugal rights instituted by the husband of the Applicant in MCA No.413 of 2024 came to be dismissed for default. It implies that on the date of the marriage of the applicant with the Respondent, the previous marriage of the applicant was still subsisting. Suppressing the said fact, the applicant solemnized marriage with the Respondent during the lifetime of her spouse.

Such a person is not entitled to the relief of transfer of the proceedings.

8. Even otherwise, according to Mr. Purekar, the husband would suffer greater inconvenience and hardship if the proceedings are transferred to and tried at Kolhapur. The husband would be required to seek leave and travel to Kolhapur. The applicant has instituted proceedings at Kolhapur only to wreck vengeance. The husband is ready to incur the expenses of travel of the wife. She can also appear through video conferencing.

9. Mr. Salunke resisted the submissions on behalf of the husband. It was urged that the applicant – wife has no means to support herself. She is dependent on her parents. The question as to whether the marriage was null and void on account of it having been performed during the subsistence of the previous marriage, is a matter for adjudication at the trial. Having regard to the distance between Kolhapur and Mumbai and the situation in life of the applicant-wife, her prayer for transfer deserves to be allowed, submitted Mr. Salunke.

10. I find substance in the submissions of Mr. Salunke. The question as to whether the marriage was null and void and deserves to be so declared by a decree of nullity, is indeed a matter for adjudication at the trial. Prima facie, it appears that the applicant is dependent on her family. The applicant does not have sufficient financial and logistical support to effectively defend the proceedings at Mumbai. The distance between Kolhapur and Mumbai is

prohibitive. The applicant-wife would find it extremely inconvenient and onerous to effectively defend the proceedings at Mumbai. The submission that the wife can appear before the Court through video conferencing applies with equal force to the husband. In the totality of the circumstances, the elements of convenience and hardship tilt in favour of the applicant-wife.

11. A useful reference, in this context, can be made to the decision of the Supreme Court in the case of **N.C.V. Aishwarya Vs A.S. Saravana Karthik Sha**¹ wherein 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 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.

1 2022 LiveLaw (SC) 627

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.”

12. The aforesaid enunciation of law governs the facts of the case at hand. I am, therefore, inclined to allow the application filed by the wife and reject the application filed by the husband.

13. Hence, the following order :

ORDER

- (i) Misc. Civil Application No.4 of 2025 stands rejected.
- (ii) Misc. Civil Application No.413 of 2024 stands allowed.
- (iii) Marriage Petition No.A-2851 of 2023 stands transferred from the Family Court, Bandra to the Family Court at Kolhapur.
 - 1. (iv) The learned
 - 2. Judge, Family Court, Bandra shall transfer the record and proceedings in Marriage Petition No.A-2851 of 2023 with such dispatch that it reaches the Family Court at Kolhapur, within a period of four weeks from the date of communication of this order.
- (v) The Respondent-husband is at liberty to appear before the

Family Court at Kolhapur through video conferencing in both the proceedings. However, whenever the learned Judge, Family Court, Kolhapur considers it appropriate and directs the Respondent-husband to appear in person, the Respondent-husband shall appear before the Family Court at Kolhapur.

(vi) Misc. Civil Applications stand disposed.

(vii) No costs.

(N.J.JAMADAR, J.)