

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
MISCELLANEOUS CIVIL APPLICATION NO. 420 OF 2024

Sarmistha Ghosh ..Applicant
Versus
Bhagatsingh Sikarwar ...Respondent

Adv Hardev Aidhen (though VC), i/b Abhijit Sarwate, for the
Applicant.

Adv. Priya Vaidya, for the Respondent.

CORAM: N. J. JAMADAR, J.

DATED : 28th MARCH 2025

P.C.:

1. This is an Application for transfer or Marriage Petition No. PA. No. 2141 of 2022 from the Family Court at Pune to the Family Court at Bandra, Mumbai.

2. The marriage of the Applicant with the Respondent was solemnized on 27th November 2024. They are blessed with a son, who is in the custody of the Applicant. The Applicant is working with Bank of Baroda.

3. In the wake of marital discord, the Applicant instituted a Petition for dissolution of marriage being Marriage Petition No. PA. No. 2141 of 2022 before the Family Court at Pune, as the Applicant was then posted at Pune. However, with effect from 5th July 2024, the Applicant has

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been transferred to the Corporate Office, Bank of Baroda, BKC, Mumbai. Consequently, the Applicant has been residing at Mumbai, along with her son. The Applicant, therefore, finds it extremely inconvenient to attend the proceeding at Family Court at Pune.

4. It could not be controverted that the Applicant is posted and resides at Mumbai. Having regard to the situation and life of the Applicant, especially her place of posting, it appears that, the Applicant would suffer extreme inconvenience and hardship if the marriage petition is tried at Family Court at Pune.

5. It is trite in the matter of transfer of matrimonial proceeding, ordinarily, it is the convenience of the wife that commands precedence. A useful reference, in this context, can be made to a decision of the Supreme Court in the case of *N.C.V. Aishwarya vs. A. S. Saravana Kartihk Sha*¹, wherein the factors which should weigh in, in deciding the prayer for transfer of the proceedings in matrimonial disputes, were succinctly enunciated 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

1 2022 SCC Online SC 1199.

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."

6. The aforesaid pronouncement appears to govern the facts of the case at hand as well. Inconvenience likely to be caused to the Respondent can be mitigated by permitting the Respondent to appear through video conferencing, coupled with a direction for expediate hearing of said Petition, upon transfer.

7. I am, therefore, inclined to allow the application.

8. Hence, the following order:

: O R D E R :

(i) The Application stands allowed.

(ii) Marriage Petition P.A. No. 2141 of 2022 stands transferred to the Family Court at Bandra, Mumbai, for hearing and disposal in accordance with law.

(iii) The learned Judge, Family Court at Pune, shall transfer the record and proceedings in Marriage Petition P.A. No. 2141 of 2022 to Family Court at Bandra, Mumbai, with such dispatch that

it reaches within a period of four weeks from the date of communication of this order.

(iv) Upon transfer, the learned Judge, Family Court at Bandra, Mumbai, is requested to make an endeavour to hear and decide the Marriage Petition P.A. No. 2141 of 2022, as expeditiously as possible.

(v) Application disposed.

(vi) No costs.

[N. J. JAMADAR, J.]