

Santosh

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

MISC. CIVIL APPLICATION NO. 421 OF 2024

SANTOSH
SUBHASH
KULKARNI

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Date: 2025.01.24
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Meghana Amol Sanap and ors.

...Applicants

Versus

Amol Sadashiv Sanap

...Respondent

Mr. Nikitesh Kotangale a/w Vaibhavi Daware, for the
Applicants.

CORAM: N. J. JAMADAR, J.

DATED: 24th JANUARY, 2025

Order:-

1. Heard the learned Counsel for the applicants.
2. This is an application for transfer of Marriage Petition No.A111/2023 pending on the file of Family Court at Nashik to the Family Court at Pune. Applicant No.1 is the wife of the respondent. Applicant No.2 is the son born out of their wedlock.
3. In the wake of the marital discord the applicant No.1 filed a proceeding under the Protection of Women from Domestic Violence Act, 2005 i.e. Criminal Misc. Application No.868 of 2019 before the Judicial Magistrate, First Class, Pimpri, Pune. The respondent has instituted the petition

being No.A111/2023 for decree for dissolution of marriage before the Family Court at Nashik.

4. In the application, it is averred that the applicant No.1 finds it onerous to attend the proceedings at Nashik. The applicants are dependent on the parents of applicant No.1, who reside at Pimpri, Pune. The distance between Pimpri and Nashik is prohibitive.

5. On 18th November, 2024 notice was ordered to be issued to the respondent.

6. The notice seems to have been served on the respondent by Speed Post.

7. An affidavit of service is filed.

8. The respondent has not entered appearance.

9. The averments in the application have gone untraversed.

10. In any event, applicant Nos.1 and 2 are residing at Pimpri, Pune with the parents of applicant No.1. Distance between Pimpri and Nashik is prohibitive. The applicants would suffer extreme inconvenience and hardship if the proceedings are continued at Nashik.

11. Ordinarily, the wife's inconvenience commands precedence in the matter of the transfer of the matrimonial proceedings. 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 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.”

12. *Prima facie*, it appears the aforesaid relevant factors obtain in the facts of the case at hand as well. It would thus be expedient in the interest of justice to transfer the marriage petition from the file of Family Court at Nashik to the Family Court at Pune.

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

¹ 2022 SCC Online SC 1199.

14. The application stands allowed in terms of prayer Clause (a).

15. Marriage Petition No.A111/2023 pending on the file of the Family Court at Nashik stands transferred to the Family Court at Pune, for hearing and disposal in accordance with law.

16. The learned Judge, Family Court at Nashik shall transfer the record and proceedings in Petition No.A111 of 2023 with such dispatch that it reaches the Family Court at Pune within a period of four weeks from the date of communication of this order.

17. Application stands disposed.

18. No costs.

[N. J. JAMADAR, J.]