



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

MISC. CIVIL APPLICATION NO. 445/2024

AKANKSHA CLARENCE FIGER
ALIAS AKANKSHA SUDHIR SAWANT ..APPLICANT

VS.

CLARENCE FRACIS FIGER ..RESPONDENT

Adv. A. B. Jagtap for applicant.

Adv. Kavita D. Totkekar i/b. Adv. Pankaj Dixit for respondent.

CORAM : RAJESH S. PATIL, J.

DATE : 8 OCTOBER 2025.

P.C. :

- 1.** Registry to accept the vakalatnama of learned counsel appearing for the applicant.
- 2.** This application has been filed by the applicant-wife of respondent seeking transfer of Marriage Petition No. 43 of 2024 filed for restitution of conjugal rights by the respondent-husband before the District Court, Vasai, Thane to the Family Court at Pune.
- 3.** It is the case of the applicant-wife that she is staying in Pune with her parents and the respondent-husband is staying in Vasai and

working with the Investment Banking Company at Andheri, Mumbai. The distance between Pune and Vasai is roughly around 120 Kms. The applicant's father is not keeping well due to old age and the applicant, in fact, lost her baby in the year 2022. For financially and emotionally she is depending on her parents. There is no male member in her family who could accompany her to attend the proceedings at Pune.

4. On behalf of the respondent-husband it has been submitted that contradictory submissions have been made by the applicant-wife in the application. The fact that the lawyer has appeared on behalf of the applicant-wife in the proceedings pending before Vasai Court proves that she can very well manage to appoint a lawyer in Vasai and the proceedings can be tried and disposed of.

5. Considering the law laid down by the Supreme Court in the case of *N.C.V. Aishwarya Versus A.S. Saravana Karthik Sha*, reported in **2022 SCC OnLine SC 1199**, wherein the Supreme Court states that it is the convenience of the wife which has to be taken into consideration while dealing with the transfer proceeding. Paragraph 9 of the said decision reads 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.

(Emphasis supplied)

6. The law as laid down in ***N.C.V Aishwarya*** (supra) is quite clear that in all transfer proceedings the convenience of the wife has to be taken into consideration. The applicant-wife has lost her baby in the year 2022. The applicant would have to depend upon the public transport to travel from her parents house in Pune to Court at Vasai. The applicant-wife is in process of filing her written statement to the Restitution Petition filed by the respondent-husband.

7. In my view, considering the law as laid down by the Supreme Court in the case of ***N.C.V Aishwarya*** (supra) and facts of the present case, the present application requires to be allowed.

8. The Misc. Civil Application stands allowed in terms of prayer clause (a) and disposed of accordingly.

9. The District Judge, Vasai, Thane, to transfer the proceedings of the Marriage Petition No. 43 of 2024 to the Family Court at Pune,

within a period of four weeks from today.

10. All concerned to act on an authenticated copy of this order.

(Rajesh S. Patil, J.)