

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

MISC. CIVIL APPLICATION NO. 450 OF 2024

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Aishwarya Vishwas Gurav-Karbhari ...Applicant

vs.

Vishwas Bhimrao Gurav-Karbhari ...Respondent

Mr. Ramakant Patil, for the Applicant.

CORAM : N. J. JAMADAR, J.

DATE : FEBRUARY 14, 2025

P.C:

1. Heard the learned counsel for the applicant.
2. This is an application under section 24 of the Code of Civil Procedure, 1908 for transfer of Divorce Petition No. A-530 of 2023 from the Family Court at Belapur to the Family Court at Osmanabad.
3. The marriage of the applicant was solemnized with the respondent on 6th July, 2018. In the wake of mental and physical cruelty allegedly meted out to the applicant, it is claimed, the applicant started to reside separately at her parental home. The applicant filed a proceeding under the Protection of Women From Domestic Violence Act, 2005, being PWDVA No. 55 of 2023, before the learned Magistrate at Osmanabad.
4. To give a counter blast, the respondent has filed a petition for dissolution of marriage, being Marriage Petition No. 530 of 2023, in

the Family Court at Belapur. The distance between the place of residence of the applicant and Belapur is approximately 500 km. The applicant has no means to effectively defend the proceeding at Belapur. Hence, this application for transfer.

5. An affidavit in reply has been filed on behalf of the respondent.

6. The learned counsel for the respondent resisted the application asserting that the brother of the applicant has threatened the respondent with dire consequences if the respondent happens to visit Osmanabad. Even otherwise, the respondent would suffer extreme inconvenience if the proceeding is transferred to the Family Court at Osmanabad.

7. It could not be controverted that the applicant is residing at Umregavan, Post. Bemli, Tal. Tuljapur, Dist. Osmanabd. The distance between the said place and Belapur is, in a sense, prohibitive. The applicant does not seem to have an independent source of income. The applicant is dependent on her parental relatives. The applicant had already instituted a proceeding under the Protection of Women From Domestic Violence Act, 2005 before the learned Magistrate at Osmanabad. In these circumstances, the element of relative inconvenience and hardship tilts in favour of the applicant.

8. 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."

9. The apprehension on the part of respondent and the concern on account of distance can be addressed by permitting the respondent to appear before the Family Court at Osmanabad through video conferencing.

Hence, the following order.

ORDER

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

2] Divorce Petition No. A-530 of 2023 stands transferred from

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the Family Court at Belapur to the Family Court at Osmanabad for hearing and disposal in accordance with law.

3] The learned Judge, Family Court, Belapur shall transfer the record and proceedings in Divorce Petition No. A-530 of 2023 with such dispatch that it reaches the Family Court at Osmanabad within a period of four weeks from the date of communication of this order.

4] The respondent is at liberty to appear through video conferencing. However, whenever the learned Judge, Osmanabad consider it appropriate and directs the respondent to appear in person, the respondent shall appear in person.

Application disposed.

(N. J. JAMADAR, J.)