

IN THE HIGH COURT OF JUDICATURE AT BOMBAY***CIVIL APPELLATE JURISDICTION*****MISCELLANEOUS CIVIL APPLICATION NO. 562 OF 2024****NEELADEVI ANILKUMAR RATHOD APPLICANT****VERSUS****ANILKUMAR KANIRAM RATHOD RESPONDENT**

Mr. Omkar Nagwekar i/b. Ms. Prabha U. Badadare for the Applicant.

CORAM : RAJESH S. PATIL, J.**DATE : 18 SEPTEMBER, 2025****P.C. :-**

1) This is a transfer proceedings filed by the wife. Notice was issued to the respondent (husband). Office remark shows that the notice has been duly served upon the respondent. The respondent has chosen not to appear in the present proceedings though duly served.

2) It is submitted on behalf of the applicant that she has lost her father and she is at the mercy of her elder married sister. She is staying with her daughter and mother with the married sister. She is a housewife and is not working. The DV proceeding has been filed by her before the Judicial Magistrate First Class, Bhiwandi. In the said proceedings interim maintenance of Rs.6,000/- per month has been

granted. However, till date the respondent (husband) has not even paid a single rupee. A distress warrant has been issued against the respondent husband. The applicant is seeking transfer of the divorce proceedings filed by the husband before the Civil Judge Senior Division, Palghar to the Civil Judge Senior Division, Bhiwandi, District Thane. The distance between the Court at Palghar and Bhiwandi is around 150 km and there is no public transport available by way of bus or train from Bhiwandi to Palghar. Therefore, it is completely inconvenience for the applicant (wife) to travel to Palghar to attend the court proceedings.

3) Having heard of the learned advocate for the applicant and after going through the contents of the application and the law laid down by the Hon'ble Supreme Court in case of ***N.C.V. Aishwarya vs. A.S.Saravana Karthik Shah***, reported in ***2022 SCC OnLine SC 1199***, in which the court has categorically held in paragraph no.9 that it is convenience of the wife which has to be considered. Para no.9 of the said judgment 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)

- 4) Considering the law as laid down by the Hon'ble Supreme Court in the judgment of *N.C.V. Aishwarya* (supra) and the facts of the present case, I am satisfied that a case is made out to allow the present Miscellaneous Civil Application.
- 5) **Miscellaneous Civil Application is allowed in terms of prayer clause (b).**

[RAJESH S. PATIL, J.]