



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
MISC. CIVIL APPLICATION NO.37 OF 2025**

Aditi Ajinkya Kudale ... Applicant
versus
Ajinkya Ravindra Kudale ... Respondent

WITH
MISC. CIVIL APPLICATION NO.487 OF 2024

Ajinkya Ravindra Kudale ... Applicant
versus
Aditi Ajinkya Kudale ... Respondent

Ms. Rutuja K. Patil, for Applicant in MCA No.37 of 2025 and for Respondent in MCA 487 of 2024

Mr. Rajesh More, for Respondent in MCA No.37 of 2025 and for Applicant in MCA No.487 of 2024.

CORAM: N.J.JAMADAR, J.

DATE : 21 MARCH 2025

P.C.

1. Heard the learned Counsel for the parties.
2. These cross applications are for transfer of the matrimonial proceedings under Section 24 of the Code of Civil Procedure, 1908.
3. The marriage of Anijky - Applicant in MCA No.487 of 2024 was solemnized with Aditi - Respondent on 12 December 2019. The parties have no issue out the wedlock. In the wake of the matrimonial discord, the wife allegedly left the matrimonial home.
4. On 28 February 2024, the wife has filed a petition for dissolution of marriage under Section 13(1)(ia) and (ib) of the Hindu Marriage Act, 1955

before the Family Court at Nashik, being Petition A-144 of 2024.

5. The Respondent, on his part, has filed a Petition for restitution of conjugal rights under Section 9 of the Hindu Marriage Act, 1955 before the Family Court at Pune, being Petition A-1737 of 2024.

6. The husband had filed an application seeking transfer of Petition No.A-144 of 2024 from the Family Court at Nashik to the Family Court at Pune asserting, inter alia, that the wife was working at Dubai. She is financially sound. She had attended the proceedings at Pune. She has brothers who can take care of her parents. On the contrary, the applicant has his businesses at Pune. The parents of the applicant are dependent on him. It would be extremely inconvenient for the husband to attend the proceedings at Nashik.

7. The wife has resisted the prayer of transfer and has also filed MCA No.37 of 2025 seeking transfer of the Petition for restitution of conjugal rights i.e. Petition No.A-1737 of 2024 from the Family Court at Pune to the Family Court at Nashim.

8. The wife asserts, she was temporarily working at Dubai. Now she is permanently based at Nashik. The husband has not made any provision for her since 25 October 2021, the day she was deserted by the husband. The husband has not attended the proceedings before the Family Court at Nashik. Her father is critically ill and has undergone renal transplantation twice. The

wife was, thus, forced to quit her job in Dubai and shift back to Nashik. There is nobody to take care of her ailing father. It would be extremely inconvenient for her to travel alone to attend the proceedings before the Family Court at Pune.

9. Affidavits in reply have been filed on the same lines.

10. I have heard Ms. Patil, learned Counsel for the wife, and Mr. More, learned Counsel for the husband, at some length.

11. Ms. Patil submitted that the husband has filed a Petition for restitution of conjugal rights to give a counter-blast to the Petition for dissolution of marriage filed by the wife. The husband had not made a single genuine effort to resume the matrimony. The wife has been constrained to quit her job and return to Nashik and stay with her family. In these circumstances, the convenience of the wife deserves to be given preference.

12. Mr. More, learned Counsel for the husband, would urge that the principle that the convenience of the wife deserves preference, may not apply in the facts of the case, as the wife does not suffer from social and economic disadvantages. She was working at Dubai. She used to fly to attend the proceedings from Dubai. She can conveniently attend the proceedings at Pune. In the case at hand, the husband would suffer grave hardship if the proceedings are conducted at Nashik. To lend support to these submissions, Mr. More placed reliance on the decision on the Supreme Court in the case of

Anindita Das V/s. Srijit Das¹.

13. Learned Counsel were in unison on the point that it would be expedient in the interest of justice that the Petitions for dissolution of marriage and restitution of conjugal rights are heard and decided by one Court. It would avoid conflicting decisions and promote expeditious resolution of the matrimonial disputes. Learned Counsel were, however, at issue as to the place where both the proceedings be tried.

14. It is trite, ordinarily in the matter of transfer of the matrimonial proceedings, it is the convenience of the wife which commands preference. The disadvantages which the women generally suffer on account of the social and economic condition weigh in, for giving preference to the convenience of the wife. In the case at hand, it appears that the husband and wife were both working professionals. It is not denied that the wife was working at Dubai. However, the wife now asserts that she has left her job and is residing with her parents at Nashik. It is contended that her father is critically ill and requires care and attention.

15. It is necessary to note that, initially the wife filed a Petition for dissolution of marriage. After few months, the husband filed the Petition for restitution of conjugal rights. At this stage, there is no justifiable reason to disbelieve the version of the wife that she has left her job and been residing at

1 (2006) 9 SCC 197

Nashik. Undoubtedly, the wife had travelled to far off places and worked at Dubai. However, that alone cannot be a ground to make her travel to Pune to attend the proceedings at Pune. Having regard to the distance between Nashik and Pune, the wife would suffer greater inconvenience and hardship if the proceedings are transferred to the Court at Pune.

16. A useful reference, in this context, can be made to the decision of the Supreme Court in the case of **N.C.V. Aishwarya Vs A.S. Saravana Karthik Sha**² wherein 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 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

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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.”

17. In this case, it could be urged that the wife does not suffer from acute social and economic disadvantages. However, the fact remains that it would be inconvenient for the wife to travel to Pune. Faced with a situation of inconvenience for both the parties, the scale of relative inconvenience tilts in favour of the wife. I am, therefore, inclined to allow the wife’s application and reject the application filed by the husband.

18. Hence, the following order :

ORDER

- (i) MCA No.487 of 2024 stands rejected.
- (ii) MCA No.37 of 2025 stands allowed.
- (iii) Petition No.A-1737 of 2024 stands transferred from the Family Court at Pune to the Family Court at Nashik for hearing and disposal in accordance with law along Petition No.A-144 of 2024.
- (iv) The learned Judge, Family Court, Pune shall transfer the record and proceedings in Petition No.A-1737 of 2024 with such dispatch that it reaches the Family Court at Nashik within a period of four weeks from the date of communication of this order.
- (v) The Respondent husband is at liberty to appear before the Family

Court at Nashik through video conferencing. However, whenever the learned Judge, Family Court at Nashik considers it appropriate and directs the Respondent husband to appear in person, the husband shall appear before the Family Court at Nashik.

Applications disposed..

(N.J.JAMADAR, J.)