

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

MISCELLANEOUS CIVIL APPLICATION NO. 95 OF 2025

ANAND
SUDHAKAR
SUDAME

Grishma Elroy Fernandes Nee Gishma Sequeira ..Applicant

Versus

Elroy Gilroy Fernandes ..Respondent

Digitally signed by ANAND SUDHAKAR SUDAME
Mr. Sumedh Modak a/w. Mr. Aakash Bhopi, Advocates, for the Applicant
Mr. Ravi V. Asabe, Advocate, for the Respondent

Date: 2025.12.11
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CORAM : RAJESH S. PATIL, J.

DATE : 09.12.2025

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1. Mr. Modak, learned Counsel for the Applicant seeks leave to amend the prayer clause. Leave granted. Amendment to be carried out forthwith a copy thereof be served on the other side.
2. By the present transfer Application, the Applicant, who is the wife of the Respondent is seeking transfer of the Marriage Petition filed by the Respondent – husband pending before the Family Court, Belapur, Navi Mumbai to the Family Court, Thane.
3. Both the Applicant and the Respondent are working in the airlines. There is no issue born out of the wedlock of the Applicant with the Respondent. After the marital discord, the Applicant is staying with her parents at Vasai, District – Thane.

4. It is the case of the Applicant that she has filed a divorce Petition before the Family Court, Thane and the Respondent – husband has also filed a divorce Petition before the Family Court, Belapur, Navi Mumbai. It is further submitted on her behalf that she is working in the airlines as an air hostess. Therefore, there is a lot of travelling and the Respondent is working as Manager, Airport, Operation and Customer services. Hence, his duty does not involve travelling. If both the proceedings are clubbed together and heard by the Family Court, Thane, it will be convenient for both the parties and they will not be required to attend the two proceedings in two different Courts.

5. The Supreme Court in the case of ***N. C. V. Aishwarya vs. A. S. Sarvana Karthik Sha***, reported in ***2022 SCC OnLine SC 1199*** has held that considering transfer proceedings, convenience of the wife has to be taken into consideration. Paragraph 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 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. Considering the law as laid down in the case of *N. C. V. Aishwarya* (Supra) and facts of the present case where both the parties have filed divorce proceedings before two different Courts in the same District under the Special Marriage Act, it will be in the interest of justice, if both the proceedings are clubbed together and heard by one and the same Judge.

7. As duty of the Applicant – wife who is staying with her parents requires lot of travelling and duty of the Respondent is basically desk job, I am of the opinion that the divorce Petition filed by the husband before the Family Court, Belapur, Navi Mumbai to the Family Court, Thane where divorce proceeding of the wife is pending.

8. The Miscellaneous Civil Application stands **allowed** in terms of **prayer clause (b)**.

8.1. The proceeding, being Petition A. No. 744 of 2024 pending before the Family Court, Belapur, Navi Mumbai be transferred to the Family Court, Thane within a period of four weeks from today and heard along with Petition No. 504 of 2024.

8.2 Both the matters be clubbed together and be heard by one and the same Judge.

8.3 The hearing of both the proceeding is hereby expedited.

8.4 Both the parties are directed to co-operate with the early hearing

of the Petitions and they will not seek unnecessary adjournments.

8.5 Both the parties are at liberty to attend the Court proceeding before the Family Court, Thane through VC mode. However, whenever necessary, as per the directions of the learned Judge taking up the matter, both the parties will have to attend the proceedings in person.

8.6 Learned Counsel for the Applicant is hereby directed to convey the order passed today **to the Family Court, Belapur, Navi Mumbai** who is hearing the matrimonial proceedings and file Affidavit to that effect within a period of two weeks from today.

(RAJESH S. PATIL, J.)