



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

MISC. CIVIL APPLICATION NO. 137/2025

MADHURI ANUBHAV WADIKHAYE
(MADHURI PUNDALIK DALAL)

..APPLICANT

VS

ANUBHAV PRAVINKUMAR WADIKHAYE

..RESPONDENT

Mr. Sagar Tambe for applicant through VC.

CORAM : RAJESH S. PATIL, J.

DATE : 1 OCTOBER 2025.

P.C. :

1. None appears for the respondent – husband, when the matter is called out for hearing. On the last occasion though the respondent was duly served, he did not appear before this Court, therefore, this Court granted one more opportunity to the respondent to make his submissions.

2. Mr. Tambe, learned counsel for the applicant submits that pursuant to the order passed on last occasion, he has reserved the notice on the respondent informing about today's hearing.

3. In the present proceeding, the applicant-wife of respondent-

husband is seeking transfer of Petition filed by the husband pending before the Family Court at Nagpur to the Joint Civil Judge, Kalyan, Thane. It is submitted on behalf of the applicant that both parties have filed Marriage Petition No. 24 of 2023 before the Civil Judge Senior Division, Kalyan, under the mutually agreed conditions. In the said Petition, the Court granted six months period for reconciliation and mediation. After expiry of six months cooling period, the respondent – husband purposely failed to appear before the Court though multiple opportunities were given to the respondent-husband. Since the respondent-husband was not cooperating, the applicant had no option but to withdraw the proceedings filed before the Civil Junior Senior Division, Kalyan. The applicant-wife, thereafter, filed Marriage Petition on the ground of cruelty. The said proceedings are pending before 4th Joint Civil Judge Senior Division, Kalyan. In the meanwhile, the respondent-husband with ulterior motive filed divorce proceedings before the 2nd Family Court, Nagpur.

4. It is the applicant's case that she has filed the divorce proceedings first, therefore, the divorce proceedings filed by the respondent – husband should be transferred from Nagpur to Kalyan. It is further submitted on behalf of the applicant that, the respondent-husband is not contributing/paying any maintenance amount to the

applicant-wife and that the respondent – husband had agreed for a mutual divorce, he has backed out from the same and has filed maliciously proceeding before Nagpur Court. Distance between Nagpur and Kalyan is 750 km. Therefore, it will be overnight journey for the applicant-wife to travel to Nagpur to attend the Court proceeding. It will cause tremendous hardship to the applicant-wife. There is no person available to escort the applicant-wife to Nagpur.

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. Taking into consideration the law laid in the case of *N.C.V.*

Aishwarya (supra) and the facts of the present case, I am convinced that the present Misc. Civil Application requires to be allowed.

7. Misc. Civil Application stands allowed in terms of prayer clause (b) and disposed of accordingly.

8. The 2nd Family Court at Nagpur is hereby directed to transfer Petition No.A/576 of 2024 pending before the 2nd Family Court at Nagpur to the Civil Judge, Senior Division, Kalyan, District Thane, within a period of four weeks from today.

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

(Rajesh S. Patil, J.)