

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

MISCELLANEOUS CIVIL APPLICATION NO. 147 OF 2025

Bhavika Sagar Motwani

..Applicant

Versus

Sagar Ashok Motwani

..Respondent

Ms. Shraddha S. Vavhal i/b. Mr. Hasnain Kazi, Advocates, for the Applicant

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CORAM : RAJESH S. PATIL, J.

DATE : 22.12.2025

P. C.

1. Ms. Vavhal, learned Counsel for the Applicant seeks leave to carry out amendment in the MCA. Though this Court had granted liberty to carry out amendment in the prayer clauses, learned Counsel for the Applicant has not done so.
2. In the interest of justice, learned Counsel for the Applicant is allowed to carry out amendment forthwith.
3. This Court by an Order dated 02.05.2025 had issued notice to the Respondent. So also learned Counsel for the Applicant submits that the Applicant was permitted to serve the Respondent by a private service and file an Affidavit of service before the next date of hearing.
4. Office remarks show that the Respondent has been duly served.

So also an Affidavit of service dated 15.10.2025 has been filed by the learned Counsel for the Applicant which proves that the Respondent has been duly served via speed post. However, in order to give one more opportunity to the Respondent, on the last occasion, I had permitted the Applicant to serve a copy of the present Misc. Civil Application on the learned Counsel for the Respondent in the divorce proceeding pending before the learned Family Court, Ahmednagar.

5. Learned Counsel for the Applicant submits that she has informed learned Counsel for the Respondent before the learned Family Court, Ahmednagar and served him a copy of the MCA. She further submits that today, she has received whatsapp message from the learned Counsel for the Respondent before the learned Family Court, Ahmednagar which has been tendered to this Court which reads as under :-

*“Pls ..
take a single adjourned sir Next dt I will appear in the
petition today is not possible to attain the hearing”*

6. I am surprised with the message which learned Counsel for the Respondent informs the other side and requested her to take an adjournment on his behalf. I presume that the Respondent is not interested in appearing in the present proceeding in view of the fact that he was already served by a private service on 11.10.2025. So also

Court notice has been served on him. Since he was not appearing additionally, learned Counsel for the Applicant was burdened with service to the learned Counsel for the Respondent appearing before the learned Family Court, Ahmednagar. Hence, I am proceeding further with the hearing of the present MCA.

7. This matter has appeared on board ten times, when the Respondent chose not to appear.

8. By the present transfer proceeding, the Applicant, who is the wife of the Respondent is seeking transfer of the divorce proceeding filed by the Respondent – husband before the learned Family Court, Ahmednagar to the learned CJSD, Nehru Nagar, Pimpri, Pune.

9. The distance between Ahmednagar and Pune is around 100 Km. The Applicant – wife is staying at Pimpri, Pune along with her son, aged ten years and daughter, aged seven years. She is a home maker. It will not be possible for her to travel to Ahmednagar to attend the Court proceeding by travelling around 100 Km and return back on the same day. Both the children are studying in School at Pimpri, Pune.

10. 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 while deciding 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)

11. Considering the law as laid down by the Supreme Court in the case of ***N. C. V. Aishwarya*** (Supra) and facts of the present case, according to me, a case is made out to allow the present MCA.

12. The Miscellaneous Civil Application **stands allowed** in terms of **prayer clause (a)**.

13. The proceeding, being Petition No. 379 of 2022 pending before the learned Family Court, Ahmednagar be transferred to the learned CJSD, Nehru Nagar, Pimpri, Pune within a period of four weeks from today.

(RAJESH S. PATIL, J.)