

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****MISC. CIVIL APPLICATION NO.192/2025****GRESHMA BENNY GEORGE****..APPLICANT****VS.****BENNY KUNJAPPY GEORGE****..RESPONDENT**

Ms. Aditi Kore a/w. Ms.Srushti Salvi i/b. Mr. Rahul Shelke for the Applicant.

Ms.Anokhi Arora a/w. Mr.Anay Jain, Mr.Creesh Jain for the Respondent.

CORAM : RAJESH S. PATIL, J.**DATE : 17 OCTOBER, 2025****P.C. :-**

1) Learned advocate appearing for the applicant submits that the respondent infact has shifted from Abu Dhabi to Canada. She submits that therefore the divorce proceedings filed by the respondent at Bandra Family Court can be transferred to the Thane Family Court.

2) It is submitted that the applicant is staying with her daughter born out of the wedlock with the respondent. The D.V. proceedings have been filed by the present applicant before the Judicial Magistrate First Class, Thane.

3) Learned advocate appearing for the respondent-husband submits that the applicant-wife has been very casual and she is not

attending the court proceedings. The divorce petition has moved forward without the written statement filed by the applicant-wife and the matter has reached at evidence stage. The respondent has been attending the said proceedings via video conferencing and at this stage, the proceedings should not be transferred.

4) The Hon'ble Supreme Court in case of ***N.C.V. Aishwarya vs. A.S.Saravana Karthik Sha***, reported in ***2022 SCC OnLine SC 1199*** has held that the convenience of the wife has to be seen for the transfer proceedings. Paragraph 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)

5) Considering the law laid down by the Hon'ble Supreme Court in case of ***N.C.V. Aishwarya*** (supra) and the fact that though the

proceedings of divorce has reached at the stage of evidence, however, the fact remains that the written statement of the applicant-wife is not on record as she is unable to attend proceedings. There is no dispute that the respondent-husband is not staying in Mumbai City and is working at Canada. So also, admittedly he is attending the divorce proceedings via video conferencing. In such a scenario according to me, it does not make any difference to the respondent-husband if the proceedings are transferred from the Family Court, Bandra to the Family Court at Thane.

6) Hence, the present **Miscellaneous Civil Application stands allowed in terms of prayer clause (a).**

6.1) The proceedings A/3136/2021 pending before the Family Court, Bandra be transferred to the Family Court, Thane within a period of four weeks from today.

6.2) The respondent is permitted to attend the said proceedings via video conferencing and whenever need arises, as per the opinion of the learned Judge of the Family Court, Thane, the respondent would have to attend the proceedings physically.

7) I would also like to observe here that considering the overall facts of this case, in my view if an application is made by the applicant-wife to take her written statement on record, the same can

be considered on merits by the learned Family Court Judge and thereafter, the matter can proceed further for evidence as per law.

7.1) One more reason for positively considering the filing of written statement by the applicant-wife in the divorce proceedings filed by the husband would be, she has succeeded in the restitution petition filed by her and hence it is submitted that she was not pursuing the divorce proceedings filed by the husband.

[RAJESH S. PATIL, J.]