

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****MISCELLANEOUS CIVIL APPLICATION NO. 197 OF 2025****AARTI CHAITANYA ASAWALE****..... APPLICANT****VERSUS****CHAITANYA RAVINDRA ASAWALE****..... RESPONDENT**

Adv. C. K. Bhangoji for the Applicant.

CORAM : RAJESH S. PATIL, J.**DATE : 21 NOVEMBER, 2025****P.C. :-**

1) By the present transfer Application filed by the Applicant, who is the wife of the Respondent seeking transfer of the Respondent's Application filed under Section 9 of the Hindu Marriage Act, 1955 for restitution of conjugal rights from the Civil Judge Senior Division, Gadhinglaj, Kolhapur to the Family Court, Belapur, Navi Mumbai.

2) Office remark shows that the respondent has been duly served. So also, the advocate for the applicant has filed affidavit of service dated 26 September, 2025 to prove that the respondent has been also privately served with a copy of the present Miscellaneous Civil Application. None appeared for the respondent when the matter is called out. It seems that the respondent is not interested in

appearing in the present proceeding and oppose the present proceeding. Therefore, I have proceeded further with the hearing of the present Miscellaneous Civil Application.

3) It is the Applicant's case that she has filed a D. V. proceedings before the JMFC, Belapur. She is staying at Juinagar, Navi Mumbai along with her elder daughter, aged 15 years. Her younger son is aged 13 years who is residing with her husband at Gadhinglaj, Kolhapur. The Respondent – husband is working in a private Company at Kolhapur. It is further submitted that the distance between Juinagar and Kolhapur is around 440 Km. It is inconvenient for the Applicant who is working lady to travel to Kolhapur from Juinagar and return back on the same day.

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 the applicant is staying at Juinagar, Navi Mumbai alongwith her 15 years old daughter, who is studying at Juinagar, Navi Mumbai. Hence, I am of the view that it will be difficult for the applicant who is working in a private sector at Navi Mumbai to travel around 400 kms to attend court proceedings at First Civil Judge Senior Division, Gadhinglaj, District Kolhapur and to return back on the same day. I am convinced that this Miscellaneous Civil Application requires to be allowed.

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

7) The proceeding of Marriage Petition No. 225 of 2024 pending before the 1st Civil Judge Senior Division, Gadhinglaj, District Kolhapur be transferred within a period of four weeks from today to the Family Court at Belapur, Navi Mumbai.

[RAJESH S. PATIL, J.]