

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

MISCELLANEOUS CIVIL APPLICATION NO. 242 OF 2025

ANAND
SUDHAKAR
SUDAME

Amrapali Surendra Gaware

..Applicant

Versus

Digitally signed by
ANAND SUDHAKAR
SUDAME

Suendra Anant Gaware

..Respondent

Date: 2025.12.02
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Mr. Rohit Joshi, Advocate, for the Applicant

CORAM : RAJESH S. PATIL, J.

DATE : 28.11.2025

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1. This is an Application filed by the Applicant, who is the wife of the Respondent – husband seeking transfer of the divorce proceedings filed by the husband before the Family Court, Bandra, Mumbai to the learned CJSD, Panvel, Navi Mumbai.

2. Office remarks show that notice issued to the sole Respondent has been duly served. So also learned Counsel for the Applicant has filed an Affidavit of service dated 24.09.2025 which shows that the Respondent has been duly served.

3. None appears on behalf of the Respondent when the matter is called out.

4. Though office remarks show that the Respondent has been duly served, learned Counsel for the Respondent chose not to appear in the

present proceeding.

5. Hence, I am proceeding further with the hearing of the Application.

6. It is the case of the Applicant that she is staying at her parents house at Panvel along with her 9 years old son. Her son is studying in a school at Kamothe, Panvel. The Applicant is a homemaker and the Respondent is working in a private organization in Mumbai. It is inconvenient for the Applicant to travel from Panvel, Navi Mumbai to Bandra, Mumbai to attend the Court proceedings with her 9 years old son. There is no male member in her family who can accompany her to attend the Court proceeding. It is further submitted that the divorce proceeding filed by the husband is at the pre-trial stage. It is further submitted the Respondent – husband is not paying maintenance to the Applicant or to their son. The Applicant has filed D. V. proceeding before the learned JMFC, Panvel, Navi Mumbai.

7. 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)

8. Considering the law as laid down in **N. C. V. Aishwarya** (supra), facts of the present case and the Respondent though served is not attending the Court proceeding. The Applicant is still staying with her 9 years old son at her parents house and has no source of income. So also the Respondent is not paying any maintenance to her or to her son, I am convinced that a case is made out to allow the Application.

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

10. The proceeding, being the Marriage Petition No. A-3217 of 2021 be transferred within a period of four weeks to the learned CJSD, Panvel, Navi Mumbai.

(RAJESH S. PATIL, J.)