



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

MISC. CIVIL APPLICATION NO.484/2024

AJAY SHARAD NAGARE ..APPLICANT
VS
PALLAVI AJAY NAGARE NEE
PALLAVI SANDIP ASHTEKAR ..RESPONDENT
WITH
MIC. CIVIL APPLICATION NO. 252/2025

SOU PALLAVI AJAY NAGRE ..APPLICANT
VS
AJAY SHARAD NAGRE ..RESPONDENT

Adv. Priyal G. Sarda a/w. Adv. Seema Dighe for applicant in
MCA/484/2024 & for respondent in MCA/252/2025.
Mr. Anup Lahoti for respondent in MCA/484/2024 and applicant in
MCA/252/2025.

CORAM : RAJESH S. PATIL, J.

DATE : 17 NOVEMBER 2025.

P.C. :

1. Misc. Civil Application No. **484/2024** has been filed by the applicant, husband, who is seeking transfer of Section 9 proceedings filed by the respondent, wife before the Family Court at Pune to the Civil Judge Senior Division, Junnar.

2. Similarly, the wife has filed transfer petition being Misc. Civil Application No.**252 of 2025** seeking transfer of husband's divorce petition filed before the Civil Judge Senior Division, Junnar to the

Family Court, Pune and to be heard along with Section 9 petition filed by the wife.

3. It is the wife's case that after there was matrimonial discord, and the husband has thrown her out of the house, so also, he is not allowing her to meet her twins children. She is working as a house maid as she has studied upto standard VIII, and for shelter she is at mercy of her widowed mother and unmarried brother. The husband is not paying any maintenance to her. The husband's family is well off and owner of large parcels of land, so also, they own a Maruti Suzuki Ertiga car and.

4. The husband is staying at Narayangaon, and he had initially filed proceedings before the Civil Judge Senior Division, Khed, which is 30 to 40 kms away from his house. Subsequently, a new Court was set up at Junnar pursuant to which the proceedings filed by the husband were transferred from Khed to Junnar. If the proceedings are transferred to Pune, the husband has to travel around 60 kms. Initially, he was traveling around 30 to 40 kms. from Narayangaon to Khed. His family owning Ertiga car and in contrast the wife is working as a house help in different homes. The husband is not paying any kind of maintenance to her.

5. On behalf of the wife, it is also submitted that the wife is staying at Shivne which is around 20-30 kms away from Pune city and if she has to attend the proceedings at Junnar, it will be around 120 kms. for which she has to change at least 2-3 State Transport buses.

6. It is submitted by learned counsel for the husband that twin children are in the custody of the husband. The husband is also residing with his parents and unmarried sister, who is 31 years old, and 55% mentally retarded.

7. While this matter was argued, learned counsel appearing for the wife suggested that it is not at all difficult for the husband to attend the proceedings at Pune as in any case he had filed the proceedings at Khed which is 30 to 40 kms. away from his house and if proceedings are transferred, he has to travel 20 kms. more. It would not be inconvenient for him as he is owning Ertiga car bearing registration No.MH-14-KA-4669 which is mentioned in Misc. Civil Application. While this point was argued, learned counsel appearing for the husband denied that the husband is owning any such car. It was further contended by learned counsel appearing for the wife that the car in fact is in the name of the father of the husband. At that

time, Mr. Sarda submitted that he would have to take instructions from his client on the issue of his family owning the car.

8. As the matter was further argued and I had suggested to Mr.Sarda that even on merits the matter can be transferred as there will be no inconvenience caused to the applicant who was otherwise traveling 30 to 40 kms. in his own car and by transferring proceedings to Pune, he would have to travel 20 kms. more and hence, whether he will on instructions like to give consent. However, Mr. Sarda insisted that he is not giving any consent and the order has to be passed on merits.

9. 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)

10. Considering the law laid down by the Hon'ble Supreme Court in case of *N.C.V Aishwarya* (supra) and considering the facts of the present case, I am convinced that the application filed by the husband requires to be dismissed with cost and similarly, the application filed by the wife requires to be allowed.

11. Hence, Misc. Civil Application No.252/2025 is allowed in terms of prayer clause (a) and disposed of accordingly.

12.1 The proceedings in Marriage Petition No.238/2025 pending before the Civil Judge Senior Division, Junnar, be transferred to the Family Court at Shivajinagar, Pune and be heard along with Marriage Petition No.A/96 of 2024.

12.2. The said proceedings be transferred within a period of four weeks from today.

12. Considering the law as laid down in the case of *N.C.V Aishwarya* (supra), and the facts of the present matter, I find no merits in Misc. Civil Application No.484 of 2024 filed by the husband.

13. At this juncture, learned counsel for the respondent pressed for imposing cost on the applicant, who is not paying any maintenance to the wife. The wife is working as a maid. The husband is well off

owning lands and also Ertiga car. So also, for wasting judicial time when lots of litigants are waiting for their turn, cost should be imposed.

14. Thus, present Misc. Civil Application stands rejected with cost of Rs.25,000/- to be paid to the respondent within a period of four weeks from today.

(Rajesh S. Patil, J.)