

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

MISCELLANEOUS CIVIL APPLICATION NO. 256 OF 2025

ANAND
SUDHAKAR
SUDAME

Priyanka Rupam Borade

..Applicant

Versus

Rupam Ram Borade

..Respondent

Ms. Anu C. Kaladharan, Advocate, for the Applicant

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ANAND
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Date: 2025.10.15
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CORAM : RAJESH S. PATIL, J.

DATE : 14.10.2025

P. C.

1. This transfer Application has been filed by the Applicant, who is the wife of the Respondent seeking transfer of the proceedings filed under Section 9 of the Hindu Marriage Act, 1955 for restitution of conjugal rights by the Respondent – husband before the learned Jt. CJSD, Kalyan, Thane to the learned Principal Judge, Family Court, Nashik.

2. The Respondent was duly served which can be seen from the office remarks. So also as mentioned by learned Counsel for the Applicant that on the date of the hearing of the present proceeding, the Respondent – husband calls her and asks her status of the proceeding. This has happened at least three times before this Court. Prima facie, I am of the opinion that the Respondent – husband does not want to

proceed with the matter and does not want the matter to be heard on merits. Hence, I have proceeded further with hearing of the Application.

3. It is the case of the Applicant that she is staying at Nashik with her daughter - aged 12 years, son - aged 10 years and parents. Her daughter and son are studying in Nashik. The expenses of the children are borne by her parents. Her husband is working as 'Librarian' in Pragati College, Dombivali, Thane. As of today, he has not paid voluntarily any kind of maintenance to the Applicant – wife or else to the children. The distance between Kalyan and Nashik is about 138 Kms and in order to travel to the Court at Kalyan and return back on the same day, it would be difficult for the Applicant. The stage of the hearing is for filing of the Applicant's Vakalatnama (Respondent therein).

4. 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 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)

5. Considering the law laid down by the Supreme Court in the case of *N. C. V. Aishwarya (Supra)* and the fact that where wife is staying along with her children at her parents house and voluntarily, the Applicant is not paying any kind of maintenance to the wife and children, according to me, case is made out to allow the Application.
6. The Miscellaneous Civil Application is allowed in terms of **prayer clause (a)** and is disposed of.
7. The learned Jt. CJSD, Kalyan, Thane is hereby directed to transfer the proceeding, being the Marriage Petition No. 1288 of 2024 to the learned Principal Judge, Family Court, Nashik within a period of four weeks from today.

(RAJESH S. PATIL, J.)