

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
MISCELLANEOUS CIVIL APPLICATION NO.282 OF 2025

Yogita Vikas Dubey alias

Yogita Anand Dubey

...Applicant

v/s.

Vikas Gulabchandra Dubey

...Respondent

Ms. Pooja Agrawal for the Applicant.

Mr. Gaurav Lele for the Respondent.

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CORAM : Kamal Khata, J.
DATED : 16th July 2025.

P.C.:-

1. By this Application filed under Section 24 of the Civil Procedure Code, 1908, the Applicant seeks transfer of Marriage Petition No. 72 of 2024 from the Court of Civil Judge, Senior Division, Palghar to the Court of Civil Judge, Senior Division, Panvel, District Raigad.

2. The marriage between the Applicant and the Respondent was solemnized on 25th November 2022 at Panvel, Mumbai, in accordance with Hindu rites and ceremonies. Owing to serious matrimonial disputes and irreconcilable differences, the Applicant left the matrimonial home merely 22 days after the marriage.

3. Over a year later, on 29th January 2024, the Applicant initiated proceedings against the Respondent and his family

members under the Protection of Women from Domestic Violence Act, 2005, bearing Criminal M.A. No. 107/2024 before the Judicial Magistrate First Class, Panvel Court.

4. The Respondent, on the other hand, filed Divorce Petition No. 72 of 2024 before the Civil Judge, Senior Division, Palghar on 24th April 2024. The said Petition was served on the Applicant on 16th August 2024.

5. In the aforesaid background, learned Advocate for the Applicant submits that she is unemployed, financially constrained, and struggling to meet her basic daily needs. It is submitted that she resides in Panvel and it would be extremely difficult for her to travel alone to Palghar, which is nearly 140 km away and entails a commute of approximately 4.5 hours one way. The Applicant is also unable to afford the cost of travel.

6. It is further submitted that the Divorce Petition has been deliberately filed in the Palghar Court with the intent to prevent the Applicant from remaining present, thereby enabling the Respondent to secure an ex parte decree. The Applicant's family has already expended approximately ₹70 lakhs on her marriage and is unable to extend further financial support. Her father is a retired person, and the Applicant is wholly dependent on her parents. She is also undergoing severe emotional and physical distress, including

trauma, depression, PCOD, insomnia, hypertension, and other health conditions.

7. It is submitted that the following two proceedings are pending before the Panvel Court:

(a) Criminal M.A. No. 107 of 2024 under the Protection of Women from Domestic Violence Act, 2005;

(b) Criminal proceedings under Section 498-A IPC.

8. The learned Advocate for the Applicant places reliance on the following judgments of the Hon'ble Supreme Court:

(1) *Suman v. Virendra Kumar*, Transfer Petition (Civil) No. 194 of 2025, decided on 3rd April 2025;

(2) *Minu Kumari v. Upesh Kumar*, Transfer Petition (Civil) No. 1194 of 2024, decided on 22nd April 2025.

9. It is submitted that the said judgments reaffirm the settled position of law that, in matrimonial matters, the convenience of the wife is a paramount consideration while deciding transfer applications.

10. Learned Advocate for the Respondent submitted that Marriage Petition No. 72 of 2024 was filed on 24th April 2024 and served on the Applicant on 16th August 2024. Despite service, the Applicant failed to file her response or appear in the matter.

11. Consequently, the Respondent's Advocate moved an Application seeking to proceed ex parte on 29th November 2024, which was allowed by the Court on 17th January 2025.

12. Thereafter, on 20th June 2025, the Respondent's evidence was recorded, and the matter was placed for final arguments on 14th July 2025. It was partly heard and thereafter adjourned to 19th July 2025 for completion of arguments.

13. Despite having knowledge of the proceedings, the Applicant failed to appear before the Palghar Court or take any steps to contest the same. Instead, she filed the present Transfer Application belatedly on 3rd June 2025, without furnishing any explanation for her prolonged absence or justifying her failure to respond since the issuance of summons in July/August 2024.

14. It is submitted that the present Application is a calculated attempt to stall proceedings that are now at an advanced stage. Given these facts, no case is made out for granting a stay and the Palghar proceedings ought to be permitted to continue unhindered.

15. The learned Advocate for the Respondent relies on the judgment in *Usha George vs. Koshy George*,¹ to contend that

¹ (2000) 10 SCC 95

the Hon'ble Supreme Court refused to entertain a Transfer Petition where eleven sittings had already taken place and the Family Court at Secunderabad was actively seized of the matter. It was held that, at such an advanced stage of proceedings, it would be inappropriate to order a transfer. He submits that, in the present case, the proceedings are at the final stage—arguments are to be concluded—and hence, no case for transfer is made out.

16. He further relies on the judgment in *Akanksha vs. Vivek Mangal*,² wherein the Hon'ble Supreme Court held that once parties had led their evidence and advanced submissions, transfer of proceedings would not be warranted. He therefore submits that the Applicants are seeking a stay of the proceedings before the Court at Palghar only with the intent to delay the adjudication and protract the matter unnecessarily.

17. I have heard both learned Advocates and thoroughly examined the record.

18. At the very threshold, it is evident that the Applicant has approached this Court with unclean hands, having deliberately suppressed material and relevant facts. Despite having been served with the Palghar Court proceedings nearly a year ago, the Applicant has failed to disclose the

² Transfer Petition (Civil) No. 743 of 2023 order dated 21st July, 2023.

date of service or provide any explanation whatsoever for her willful absence—physical or virtual—before the Palghar Court during this entire period. The only plea raised is a vague and unsubstantiated allegation that the proceedings at Palghar were filed with the intention of obtaining an ex parte order. Such calculated silence and suppression strike at the root of judicial fairness and disentitle the Applicant from seeking any discretionary relief from this Court.

19. Two factors weigh heavily against the conduct of the Applicant. First, the institution of Domestic Violence and Criminal proceedings after an unexplained delay of one year and two months; and second, the complete failure to appear before the Palghar Court or offer any justification for such absence, despite service of process.

20. Even when this Court suggested that the Advocate seek permission to appear through virtual mode—at least to enable the Respondent to file a reply to the transfer application—the suggestion was met with obstinate resistance. The response, based on the unverified oral opinion of a local lawyer, that the Court “would not permit it,” only reinforces the impression of deliberate non-cooperation and a design to derail the judicial process.

21. In my view, the present Transfer Application is nothing but a tactical ploy designed to obstruct and derail

proceedings that are on the verge of conclusion. It is undisputed that the Applicant made no effort to appear before the Palghar Court nor took timely steps to initiate these transfer proceedings. Cloaked in the guise of “convenience of the wife”, the Application is, in reality, an abuse of process. Not a single application has been filed before the Palghar Court in nearly a year.

22. While the Court is always mindful of a wife’s convenience in matrimonial disputes as held by the Apex Court in the case of *NCV Aishwarya v A S Saravarna Karthik Sha*,³ such a right cannot be weaponized to frustrate the due course of law. The matter is now at the stage of final arguments and orders. There is no justification to stall the hearing, especially when the Applicant, despite knowledge of the ongoing proceedings, chose to remain silent and inactive since 16th August 2024—taking no steps whatsoever until 3rd June 2025. In view of the above, no case is made out for interim relief to grant stay to the Palghar Court proceedings pending hearing of the transfer Application.

23. The Applicant is granted liberty to move an appropriate application before the Palghar Court seeking permission to appear via Video Conferencing in the event she is unable to remain physically present. Any such application,

³ 2025 SCC OnLine SC 1199

if made, shall be considered by the concerned Court on its own merits.

24. The Applicant seeks a stay of this Order. In view of the above, I find no reason to grant a stay. The same is rejected.

25. The Respondent is at liberty to file an Affidavit on or before 22nd July 2025 to oppose this Application.

26. List the matter on 29th July, 2025 for hearing.

27. All concerned to act on an authenticated copy of this order.

(Kamal Khata, J.)