

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

MISCELLANEOUS CIVIL APPLICATION NO. 285 OF 2025

Siddhi Chinmay Pradhan

..... Applicant

VERSUS

Chinmay Rajendra Pradhan

..... Respondent

Mr. Sujay N. Gawade a/w. Ms.Sumedha Dhopate, Ms.Mudita Pawar,
Ms.Mihika Save i/b. Shree & Co. for the Applicant.

None for the Respondent.

CORAM : RAJESH S. PATIL, J.

DATE : 7 OCTOBER, 2025

P.C. :-

1) Mr. Gawade, learned advocate appearing for the applicant-wife submits that before the present proceedings has been filed, the applicant has filed the transfer proceedings being Miscellaneous Civil Application No. 450 of 2022, thereby seeking transfer of the custody petition from Nagpur to Thane. By an order dated 2 December, 2022 passed in Miscellaneous Civil Application No. 450 of 2022, the same was allowed. The said order reads as under:-

1. Heard Mr. Gawade, learned Advocate appearing for Applicant and Mr. Kumawat, learned Advocate appearing for Respondent at length. Perused the Application. This is an Application filed under Section 24 of the Code of Civil Procedure,

1908 by the Applicant – wife.

2. Parties got married on 31.01.2016. Applicant seeks transfer of matrimonial proceeding of marriage 'D' Petition No.5 of 2022 pending before the Family Court No.3, Nagpur filed by Respondent under Section 25 of the Guardians and Wards Act, 1890 read with Section 7(1)(G) of the Family Courts Act, 1984. Applicant resides in Thane with her parents and 5 year old son.

3. Mr. Gawade submitted that both Applicant and Respondent are deaf and communicate with each other with the help of hearing aids. It is seen that parties have a 5 year old son who is in the care and custody of Applicant. Applicant has filed Petition for maintenance under Section 125 of the Code of Criminal Procedure before Family Court at Thane. The son's school expenses are borne by Applicant's parents. Mr. Kumawat submitted that Respondent needs to take advice from his father and file Reply for opposing the Application.

4. In the above facts, the present Application cannot be kept pending for want of reply Affidavit and deserves to be granted immediately. I have heard Mr. Kumawat and noted his objections.

5. Perused grounds of hardship which are pressed in paragraph Nos.35/ I, II, III, IV, V, VI and VII of the Application. As Applicant – wife will be required to travel from Thane to Family Court, Nagpur to attend the custody proceedings, it will certainly cause prejudice and hardship to her.

6. It is well settled by a catena of judgments of the Supreme Court as well as this Court that the primary concern in such matters is the convenience of the wife.

7. The cardinal principle for exercise of power under Section 24 of CPC is that the ends of justice demand the transfer of the

suit, appeal or other proceeding. In matrimonial matters, wherever the Courts are called upon to consider the plea of transfer, the Courts have to take into consideration the economic soundness of either of the parties, the social strata of the spouses and behavioural pattern, their standard of life antecedent to marriage and subsequent thereto and circumstances of either of the parties in eking out their livelihood and under whose protective umbrella they are seeking their sustenance to life. Generally, it is the wife's convenience which must be looked at by the Courts, while deciding a transfer application and merits of the case need to be considered.

8. In the present case if the Applicant - wife is forced to go from Thane to Nagpur, it would amount to denial of justice to her. It is settled principal of law that justice is not only to be done but it should also appear to have been done. Hence, to strike a balance between the parties with a view to do complete and substantial justice and proceeding on a holistic view of the matter, I am of the considered view that it would be just and expedient to transfer the proceeding filed by Respondent-Husband from Nagpur to Thane.

9. Since the contentions are not controverted, in my opinion, ground of hardship has to be considered in favour of the Applicant, as one way distance between Thane and Nagpur is around 820 kilometers.

10. As such, Application is allowed and disposed of in terms of prayer clause (A) which reads as under:-

“(A) This Hon’ble Court be pleased to issue appropriate direction or Order to transfer the Matrimonial proceedings of Marriage Petition No.D-5 of 2022 from the learned Family Court No.3, Nagpur, to the learned Family Court, Thane.”

2) Mr. Gawade, learned advocate further submits that thereafter the husband has filed a petition for restitution of conjugal rights at Nagpur. He submits that the applicant is deaf lady. So also, the respondent is also deaf but however father of the respondent is a developer and a builder in Nagpur. The applicant is dependent on her father; mentally and also monetarily. She is staying with her minor son who is aged 8 years. It is extremely difficult for her to travel from Mumbai to Nagpur on her own. He further submits that petition for maintenance under Section 125 of the Criminal Procedure Code is pending before the Court Room No.1, Family Court at Thane.

3) 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)

4) Considering the law laid down by the Hon'ble Supreme Court in case of *N.C.V. Aishwarya* (supra) and the facts of the present case, I am convinced that the present Miscellaneous Civil Application requires to be allowed.

5) The present **Miscellaneous Civil Application is allowed in terms of prayer clause (A).** The said prayer clause (A) reads as under :-

(A) This Hon'ble Court be pleased to issue appropriate direction or Order to transfer the Matrimonial proceedings of Marriage petition No. A 422 of 2025 from the learned Family Court No.3, Nagpur, to the learned Family Court no.1 at Thane;

6) The Family Court No.3, Nagpur is directed to transfer the proceeding of Marriage Petition No. A-422 of 2025 to the Family Court No.1 at Thane within a period of four weeks from today.

[RAJESH S. PATIL, J.]