

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****MISCELLANEOUS CIVIL APPLICATION NO. 366 OF 2025**

**RASHMI RAHUL BHUMKAR ALIAS
RASHMI UKALKAR**

..... APPLICANT

VERSUS

RAHUL MAHAVIR BHUKAR

..... RESPONDENT

Adv. Rukmini Khairnar for the Applicant.

Adv. Tanmay M. Shembavanekar a/w. Adv. Satish S. Raut for the Respondent.

CORAM : RAJESH S. PATIL, J.

DATE : 2 DECEMBER, 2025

P.C. :-

1) By the present transfer application, the applicant, the wife of the respondent is seeking transfer of the divorce proceedings filed by the husband before the Civil Judge Senior Division, Pune to the Family Court at Nashik.

2) It is being admitted before me that before the husband could file a divorce proceedings before the Civil Judge Senior Division, Pune, the applicant-wife had already filed a divorce proceedings before the Family Court at Nashik on 23 August, 2024, whereas the husband has filed a divorce proceedings in Pune on 25 November,

2024.

3) I have considered in the judgment in *Miscellaneous Civil Application No. 124 of 2024* in case of *Suprabha Nitesh Patil @ Suprabha Anant Kot vs. Nitesh Gajanan Patil* alongwith connected matter that the provisions of Section 21-A of the Hindu Marriage Act, where the proceedings of either of the divorce under section 13 or judicial separation under section 10 are filed, the petition which is filed later will follow the petition which is filed earlier. Para nos. 6.1 and 7 of the said judgment reads as under :-

6.1) It is pertinent to note that Sub-section (2)(b) of Section 21-A of Hindu Marriage Act, mentions the word “shall”, so also sub-Section (3) mentions the word “shall” and whereas Sub-section (1) of Section 24 of C.P.C. uses the word “may”. Therefore, the power to transfer proceedings are general in nature under Section 24 of C.P.C. to the High Court or the district court. Therefore, Section 21A of the Hindu Marriage Act, the word ‘shall’ is used, while in C.P.C., Section 24, the word ‘may’ has been used and in any case, the Hindu Marriage Act is a special law, while the C.P.C. is a general procedural law. While dealing with petition under Section 21A (1)(b) and 2(b), the Courts have to exercise powers of transfer under C.P.C. as mentioned in sub-section (3). In the present proceedings, the husband’s application is filed under Section 21A of Hindu Marriage Act read with Section 24 of C.P.C. This section was in existence before the Hindu Marriage Act, 1955 came into force, unlike the amended section 25 of the C.P.C., which gives power to Supreme Court, to transfer suits after the 1976 amendment to C.P.C.

7) Hence, in my view taking into consideration the provisions of Section 21-A of the Hindu Marriage Act, when the proceedings are filed by the husband or wife under Section 10 (Judicial Separation) or for a decree of divorce under Section 13, and thereafter another proceeding is filed by the other party to the marriage praying for judicial separation under Section 10 of Hindu Marriage Act or for a decree of divorce under Section 13, are presented to different district Courts, the petition presented later shall be transferred to the district Court in which the earlier petition was presented and both the petitions shall be heard and disposed of together by the district Court in which the earlier petition was presented.

(Emphasis supplied)

4) In view of the same, the present **Miscellaneous Civil Application stands allowed in terms of prayer clause (a).**

5) The proceedings of Marriage Petition No. 1649 of 2024 pending before the Civil Judge Senior Division, Pune be transferred to the Family Court at Nashik within a period of four weeks from today and to be heard alongwith Petition A No. 626 of 2024. Both the proceedings be tagged together and be heard by one and the same Judge.

6) By consent of both the parties, hearing of both the petitions is hereby expedited.

7) The respondent is permitted to attend the court proceedings through video conferencing. However, whenever

necessary, as per the directions of the learned Judge taking up the matter, the respondent will have to attend the proceedings in person.

8) The parties undertake to co-operate with the early hearing of the proceedings.

[RAJESH S. PATIL, J.]