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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

MISCELLANEOUS CIVIL APPLICATION NO. 369 OF 2025

ALONGWITH

MISCELLANEOUS CIVIL APPLICATION NO. 379 OF 2025

PUJA ABHISHEK GHULI

..... APPLICANT

VERSUS

ABHISHEK MAHESH GHULI

..... RESPONDENT

Adv. Chaitali Bhogle i/b. Adv. Vivekanand Krishnan for the Applicant in both MCA.

Adv. Rati S. Sinhasane (Thr. V.C.) for the Respondent in both MCA.

CORAM : RAJESH S. PATIL, J.

DATE : 2 DECEMBER, 2025

P.C. :-

1) In Miscellaneous Civil Application No. 369 of 2025, the applicant, wife of respondent is seeking transfer of custody petition and in Miscellaneous Civil Application No. 379 of 2025, the applicant, wife of the respondent is seeking transfer of restitution petition under Section 9 of Hindu Marriage Act, 1955, both petitions are filed by the respondent-husband.

2) It is the case of the applicant that she is staying with her parents at Nashik alongwith her 7 year old son from the present marriage.

3) It is submitted that this is second marriage of both, the applicant and the respondent and from the present marriage, a son was born on 16 September, 2018 who is now in the custody of the applicant at Nashik and is going to school at Nashik. The applicant has filed maintenance application before the Family Court at Nashik on 18 July, 2024. The respondent is not paying any maintenance to the applicant or to the son.

4) The distance between Nashik and Sangli is about 433 kms. It is applicant's case that it will be totally inconvenient to the applicant to travel from Nashik to Sangli for 433 kms which takes 10 – 12 hours to travel to attend the court proceedings and it will be difficult to travel back on the same day.

5) So also, the fact that the applicant has to also take care of her 7 year old son and her parents who are senior citizens, also they find it difficult to take care of her son.

6) On behalf of the respondent, it is submitted before me that the respondent is into the business and has already taken a loan of Rs.29 lacs for business. It is difficult for him to travel to attend the court proceedings from Nashik to Sangli if this Court transfers the proceedings to Nashik.

7) The 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)

8) Considering the law laid down by the Supreme Court in case of ***N.C.V Aishwarya*** (supra) and the facts of the present case, where the distance between two places is around 433 kms which takes around 10-12 hours to travel by road and the applicant is staying at her parents' house alongwith her 7 year old son born out of the wedlock, when the respondent is not paying a single rupee as maintenance to the applicant or to the son, according to me, these two Miscellaneous Civil Applications requires to be allowed.

9) **Miscellaneous Civil Application No. 369 of 2025 stands**

allowed in terms of prayer clause (a).

10) **Miscellaneous Civil Application No. 379 of 2025 stands allowed in terms of prayer clause (a).**

11) The proceedings of Marriage Petition No. D-17 of 2024 pending before the Family Court at Sangli to be transferred to the Family Court at Nashik within a period of four weeks from today.

12) The proceedings of Marriage Petition No. A-265 of 2024 pending before the Family Court at Sangli to be transferred to the Family Court at Nashik within a period of four weeks from today.

[RAJESH S. PATIL, J.]