



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

MISC. CIVIL APPLICATION NO. 397/2025

Ashwini Sagar Mhaske

..Applicant

VS

Sagar Pandit Mhaske

..Respondent

Ms. Rukmini Khairnar for applicant.

None for respondent.

CORAM : RAJESH S. PATIL, J.

DATE : 11 NOVEMBER 2025.

P.C. :

1. This matter was on board yesterday when learned counsel for the respondent did not appear, hence, the matter was kept today in order to enable learned counsel for the respondent to appear and make submissions.

2. Even today, when the matter is called out, learned counsel for the respondent is not present. Hence, in the absence of learned counsel for the respondent, this matter is being heard.

3. This is a transfer application filed by the applicant, who is the wife of the respondent, seeking transfer of the Marriage Petition filed under Section 9 of the Hindu Marriage Act by the respondent – husband before the Family Court at Aurangabad to be transferred to

Family Court at Nashik.

4. Ms. Khairnar, learned counsel appearing for the applicant submits that the applicant -wife is staying at Nashik, in her parental home along with her son aged two and half years. The respondent – husband is staying at Aurangabad and working with MSRTC. For the respondent, it was his second marriage with the applicant. The applicant has filed the Domestic Violence proceedings against the respondent before the Judicial Magistrate First Class, Nashik. The respondent-husband has filed Section 9 proceedings at Family Court at Aurangabad. It is inconvenient for the applicant to travel from Nashik to Aurangabad which is around 200 kms. to attend the Court proceedings and return back on the same day. There is no male member in the family of the applicant who could accompany by the applicant to attend the Court proceedings, and with the applicant's son being only two and half years, it will be difficult for the applicant to attend the Court proceedings at Aurangabad. Therefore, Section 9 proceedings filed by the respondent – husband be transferred to the Family Court at Nashik.

5. 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)

6. 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 proceedings, I am convinced that the present Misc. Civil Application requires to be allowed.

7. The Misc. Civil Application is allowed in terms of prayer clause (a).

7.1 The proceedings of Marriage Petition No.A-394/2024 be transferred to the Family Court at Nashik within a period of four weeks from today.

8. Misc. Civil Application is disposed of accordingly.

(Rajesh S. Patil, J.)