

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

MISCELLANEOUS CIVIL APPLICATION NO. 418 OF 2025

ANAND
SUDHAKAR
SUDAME

Mrs. Rohini Amar Salve

..Applicant

Versus

Mr. Amar Madhav Salve

..Respondent

Mr. Mahavir Kala i/b. Mariya Alphanso, Advocates, for the Applicant

Mr. Piyush Hushing, Advocate, for the Respondent

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by ANAND
SUDHAKAR
SUDAME

CORAM : RAJESH S. PATIL, J.

DATE : 12.12.2025

Date: 2025.12.16
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1. By the present transfer proceeding, the Applicant, who is the wife of the Respondent is seeking transfer of divorce proceeding filed by the Respondent – husband before the learned Jt. CJSD, Vadgaon, Maval, District – Pune to the Family Court, Bandra, Mumbai.

2. It is the case of the Applicant that she is staying in Mumbai along with her son, aged four years who is the special child and daughter, aged ten years. The Respondent – husband is not paying any maintenance to the Applicant – wife or to the special child. The daughter of the Applicant is studying in school at Mankhurd, Mumbai.

3. Learned Counsel for the Respondent has disputed the fact that her son, aged four years is a special child. It is also submitted on behalf

of the Respondent that the divorce proceeding has moved further. Since the Applicant has chosen not to appear in the proceeding, it has been heard ex-parte. Therefore, this Court should not transfer the proceeding from Vadagaon, Maval, Pune to the Family Court, Bandra, Mumbai.

4. The Supreme Court in the case of ***N. C. V. Aishwarya vs. A. S. Sarvana Karthik Sha***, reported in ***2022 SCC OnLine SC 1199*** has held that considering transfer proceedings, convenience of the wife has to be taken into consideration. Paragraph 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 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)

5. Considering the law laid down in the case of ***N. C. V. Aishwarya*** (Supra) and the fact that the Applicant is staying with her son, aged

four years and who is special child, a case is made out to allow the MCA.

6. The Miscellaneous Civil Application **stands allowed** in terms of **prayer clause (a)**.

6.1 The proceeding, being the Marriage Petition No.151 of 2025 pending before the learned Jt. CJSD, Vadgaon, Maval, District – Pune to the learned Family Court, Bandra, Mumbai within a period of four weeks from today.

6.2 Learned Counsel for the Applicant is hereby directed to convey the order passed today to **the learned Jt. CJSD, Vadgaon, Maval, District – Pune** who is hearing the matrimonial proceedings and file Affidavit to that effect within a period of two weeks from today.

6.3 Similarly, Registrar (Judicial – I) is hereby directed to communicate the order passed today to the Registrar of the **the learned Jt. CJSD, Vadgaon, Maval, District – Pune by E-mail**.

6.4 At this stage, learned Counsel for the Applicant submits that his client will also be filing an Application in the divorce proceedings filed by the Respondent for allowing her to file Written Statement and thereafter, to lead the evidence.

6.5 So also learned Counsel for the Respondent sought transfer of the proceeding filed by the Applicant before the Magistrate's Court,

Kurla, Mumbai to the Family Court, Bandra, Mumbai. When such argument was advanced on behalf of the Respondent, a query was put by me whether his client is ready to pay any amount of maintenance towards his biological child without prejudice to the rights and contentions of his client. However, on instructions he denied to pay any such amount on the ground that as earlier the amount was paid to the Applicant.

6.6 Request made by learned Counsel for the Respondent not to transfer the Petition filed by the Applicant stands rejected.

6.7 At this stage, the learned Counsel for the Respondent is ready to pay a sum of Rs. 5,000/- per month as interim maintenance to the Children till the Application, if any, filed by the Applicant in the D. V. proceeding or in the Family Court is decided. The said statement made by the Respondent – husband who is present in Court is accepted as an undertaking given to this Court.

6.8 The Respondent is directed to pay a sum of Rs. 5,000/- per month towards interim maintenance for his children. The said amount to be deposited in the Bank account of the Applicant – wife on or before 5th day of each month till any interim maintenance Application is decided by the D. V. Court or Family Court.

6.9 In view of the same, the D. V. proceeding pending before the 52nd Court, JMFC, Kurla, Mumbai is transferred to the Family Court, Bandra, Mumbai and to be heard along with the Marriage Petition No.151 of 2025 which has been transferred from the Jt. CJSD, Vadgaon, Maval, District – Pune to the learned Family Court, Bandra, Mumbai. The proceeding to be heard by one and the same Judge.

7. The Respondent – husband is permitted to attend the proceeding before the learned Family Court, Bandra, Mumbai 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.

7.1 The Applicant – wife is directed to file her Written Statement in the Marriage Petition No.151 of 2025 as soon as the said proceeding is transferred to the Family Court, Bandra, Mumbai. The said Written statement to be filed within a period of six weeks from the proceeding being transferred to the Family Court, Bandra, Mumbai and a copy thereof be served on the Respondent. Thereafter, the Applicant through her Counsel would be permitted to cross examine the witnesses examined by the Respondent in the divorce proceeding and she can file her evidence along with list of the witnesses for leading the evidence in the said divorce proceeding. Thereafter, the matter can be heard on

merits.

7.2 The hearing of the proceeding before the Family Court, Bandra, Mumbai is hereby expedited. Both the parties will co-operate with the early hearing of the proceeding.

(RAJESH S. PATIL, J.)