



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

MISC. CIVIL APPLICATION NO.158 OF 2022

(Shubhangi w/o Kishore Pohanekar Vs. Kishore s/o Kamlakar Pohanekar)

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mr. R. Kurani, Advocate a/w Mr. A.B. Patil, Advocate for the
applicant.

CORAM:- URMILA JOSHI-PHALKE, J.

DATED :- FEBRUARY 5, 2025.

Heard.

2. By invoking the jurisdiction of this Court under Section 24 read with Section 151 of Code of Civil Procedure, present applicant seeks transfer of the proceedings A-Petition No.103/2021 pending before the Family Court, Amravati to the Family Court, Akola.

3. As per contention of the applicant that her marriage was performed with the non-applicant on 29/05/2010. After marriage, she resumed cohabitation at the house of the non-applicant but she was not treated well. In the meantime, she gave birth to a girl child but as there was no change in behaviour of the non-applicant, she constrained to leave the matrimonial house and took shelter at her parents house. Now, she is residing along with two children at her father's house. The distance between Amravati to Akola is approximately 170 kilometers. She has no source of income to incur the expenses towards the transportation as well as for her

maintenance and maintenance of her children, therefore, it is highly inconvenient place for her to attend the proceeding. Moreover, the non-applicant is attending the proceeding filed by the present applicant for grant of maintenance, therefore, no prejudice will be caused to the non-applicant.

4. Despite the notice served to the non-applicant, he failed to appear.

5. Considering the reasons mentioned in the application and the documents filed on record and it is now settled law that while considering the transfer application especially in the matrimonial matters, the convenience of the wife is to be looked into.

6. In support of the contention, learned Counsel for the applicant placed reliance on ***N.C.V. Aishwarya Vs. A.S. Saravana Karthik Sha*** (Civil Appeal No.4894/2022) by order dated 18/07/2022 wherein the Hon'ble Apex Court dealt with this issue and held in paragraph No.9 as follows:

“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.”

7. In view of the observation of the Hon'ble Apex Court also, the applicant has made out a case for transfer of the matrimonial proceedings A-Petition No.103/2021 pending before the Family Court, Amravati. Accordingly, I proceed to pass the following order :

(i) The application is allowed.

(ii) The matrimonial proceedings A-Petition No.103/2021 pending before the Family Court, Amravati be transferred to the Family Court, Akola for adjudication.

(iii) The Family Court, Amravati shall send the record and proceedings of A-Petition No.103/2021 to the Family Court, Akola.

(iv) The parties shall remain present before the Family Court, Akola on 17/02/2025.

8. The application is disposed of.

(URMILA JOSHI-PHALKE, J.)