



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

MISC. CIVIL APPLICATION [TR] NO.438 OF 2024

[Vanashree Swapnil Dafale .vs. Swapnil s/o Tukaram Dafale]

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri Pushkar Lawankar, Advocate for Applicant.
Shri Swapnil T. Dafle, Advocate for Non-Applicant.
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CORAM : PRAVIN S. PATIL, J.

DATED : 10.10.2025.

1. By this application, the applicant is seeking the transfer of Petition No.A-1775/2023 from the file of Family Court, Bandra (Mumbai) to the Principal Judge, Family Court at Nagpur.

2. From the argument advanced before this court, it is clear that the marriage between the applicant and non-applicant was solemnized on 19.3.2020 at Mohgaon, Tahsil-Kalmeshwar, District-Nagpur. After the marriage, the applicant cohabited with the family of the non-applicant at Borivali (Mumbai), however, there was a family dispute between the applicant and her in-laws. Therefore, the applicant and the non-applicant decided to reside separately and accordingly started their residence at Dahisar (Mumbai). The fact reveals that they were started residing separately from their in-laws with effect from 2.11.2022.

3. It is further pointed out by the applicant that there was matrimonial dispute between the applicant and non-applicant and on 23.3.2023, the non-applicant has abused the applicant and left her from his house. As such, since March-2023 both are residing separately. It is seen from the record that after separation with effect from 23.3.2023, she has resided in Mumbai itself. During this period she has filed the petition for

divorce before the Family Court at Mumbai bearing Petition No.A-1775/2023.

4. It is pertinent to note that the applicant has been shifted to Nagpur in the month of September-2025, however, before shifting at Nagpur, the present proceedings were filed before this Court in the month of May-2024 i.e. almost one year before her shifting from Mumbai to Nagpur.

5. This court in response to the prayer made by the applicant for transfer of the proceeding, issued notice to the non-applicant. The non-applicant appeared in the matter and filed his affidavit on record. It is the submission of the non-applicant that the applicant is a computer science engineer and is working at Larsen and Turbo, Mumbai on permanent basis and working at Mumbai.

6. The applicant has also placed on record the leave and license agreement executed by the present applicant with one Arun Dinesh Kotadia dated 19.7.2025 for a residential house for a period from 1.7.2025 to 30.4.2027. The applicant also stated that to substantiate the fact that she is residing at Mumbai, the various invoices are placed on record to show that during the period 2024-2025 she has ordered various items on different dates through online portal.

7. Non-Applicant further pointed out that in the month of December-2024, one complaint was lodged by the applicant against the family members of the non-applicant. However, on that complaint, no action was taken and it was registered as non-cognizable. Non-Applicant further stated that his parents being an old aged persons required his assistance and, therefore, it will not be possible for him to attend the proceedings if the same are transferred at Nagpur. Accordingly, all the averments made in the complaint are denied by the non-applicant. The non-applicant stated that convenience of both the parties needs to be considered while deciding the application for transfer of the proceeding.

8. Non-Applicant has relied upon the judgment of Hon'ble Supreme Court of India in the case of ***Brijal Mehul Shah .vs. Mehul Kumudbhai Shah, decided on 28.2.2024***, wherein the Hon'ble Supreme Court has held that the petitioner herein being an educated lady and working as a journalist, the request made by her for transfer of the case as per her convenience was rejected.

9. Considering the rival submissions of the parties and the case laws which are relied upon, I proceeded to decide the present application.

10. At the outset, it will be necessary to record the fact that the present applicant did not approach with clean hands before this court. From her own submission, it is clear that she has transferred to Nagpur in the month of September-2025. However, the present proceeding has been already filed in the month of May-2024. Therefore, it is clear that with an ulterior motive the proceedings were filed before this court.

11. The averment in the application nowhere demonstrate that she has been harassing at the hands of the non-applicant or her in-laws. The only submission is made that on the ground of non-conceiving of child, she was harassed at the hands of the non-applicant and his family members, but that cannot be a reason for transfer of proceeding. For seeking the transfer of proceeding there should be specific allegation that after filing of the proceeding she was obstructed or threatened by the family members to attend the proceeding at Mumbai, but no such statement or allegation is made in the complaint.

12. The fact of the case also demonstrates that initially applicant was residing with the family members of the non-applicant from the date of her marriage till November-2022. Thereafter, applicant and non-applicant resided separately at Dahisar from 2.11.2022 to 23.3.2023. On 23.3.2023, according to the applicant, non-applicant has left her and she was resided alone at Dahisar, but nothing is placed on record that from

23.3.2023 till filing of the present application, there was any kind of threat given by the family of the non-applicant to applicant. Only oral submission is advanced that due to threats of non-applicant family, she has filed present application for transfer of proceeding.

13. Moreover, the record shows that the applicant has entered into the leave and license agreement dated 19.7.2025 at Mumbai with an intention to reside at Mumbai at least up to the period of 2027. This fact also demonstrates that applicant though filed the present application before this court, thereafter entered into the leave and license agreement. All these factual aspect does not inspire confidence about the statement made by the applicant in the application.

14. It is well settled position of law that the convenience of the wife is not the sole criteria for transfer of proceeding, Hon'ble Supreme Court of India in the case of *Anindita Das .vs. Srijit Das, reported in (2006) 9 SCC 197*, held that every case is required to be considered on its own merits.

15. Here, in the present case, the above said factual position clearly states that the applicant did not approach with clean hands and the statements made in the application are seems to be after thought. The record further demonstrates that after filing of the reply by the non-applicant attempt has been made to justify the allegations by filing certain documents along with pursis.

16. According to me, if the person seeks equity, then he should approach to the court with clean hands. I am satisfied from the perusal of the record that applicant did not approach with clean hands in the matter. So also no case is made for transfer of proceeding from Mumbai to Nagpur. Therefore, the present application is **dismissed**.

(PRAVIN S. PATIL, J.)