



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

MISC. CIVIL APPLICATION NO.985 OF 2024
(Sau. Namrata Dhiraj Nage Vs. Dhiraj Damodarrao Nage)

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

Court's or Judge's Order

Ms S. Kulkarni, Advocate for the applicant.
Mr. T.S. Deshpande, Advocate for the non-applicant.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- FEBRUARY 5, 2025.

The reply filed by the non-applicant is taken on record.

2. By this application filed under Section 24 read with Section 151 of the Code of Civil Procedure, the present applicant is seeking transfer of the proceeding bearing HMP No.1594/2023 pending before the Civil Judge, Senior Division, Pune to the Civil Judge, Senior Division, Amravati.

3. Learned Counsel for the applicant submitted that the marriage of the present applicant with the non-applicant was performed on 01/12/2021. Thereafter there was a discord between them, and therefore, the applicant constrained to leave the matrimonial house and she is residing at her parents house at Morshi. Now, the non-applicant has filed an application under Section 13(i-a)(i-b) before the Civil Judge, Senior Division, Pune. The applicant has also filed domestic violence proceeding bearing No.15/2024 before the Judicial Magistrate First

Class, Morshi. The distance between the two places i.e. Morshi to Pune is more than 700 kilometers. The applicant is disabled and unable to travel. She also unable to incur the expenses and she has no source of income to incur the expenses towards the transportation.

4. For all above these reasons and taking into consideration the convenience of the applicant/wife, matter be transferred from Pune to Amravati.

5. Said application is strongly opposed by the non-applicant on the ground that he is also a disabled person and it is difficult for him to travel from Pune to Amravati to attend the proceedings. It is further submitted that it was the applicant/wife who has left the matrimonial house and after due efforts, she has not joined the company of the present non-applicant, and therefore, non-applicant constrained to file the petition for dissolution of marriage. There is no sufficient ground to transfer the petition from Pune to Amravati. Hence, the application deserves to be rejected.

6. I have heard learned Counsel for both the sides. Perused the application as well as FIR and various documents on record. There is no dispute as to the fact that the applicant and non-applicant both are disabled persons. At the same time, the distance between the Amravati to Pune is more than 700 kilometers, and therefore, the applicant claimed that it would be inconvenient for her to travel from Amravati to Pune as there is nobody to escort her to attend the proceeding. It is

well settled that while considering the transfer application especially in matrimonial matters, the convenience of the wife is to be looked into. It is observed by the Hon'ble Apex Court in the case of ***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. As far as the contention of the learned Counsel for the non-applicant is concerned that it is difficult for the non-applicant to travel as he is also disabled person. He can avail the facility of Video Conferencing wherever he has to join the hearing of the

said application and the Civil Judge, Senior Division, Amravati shall consider his request as far as the Video Conferencing facility is concerned. In view of that, the application deserves to be allowed. Accordingly, I proceed to pass the following order :

- (i) The application is allowed.
- (ii) The matrimonial proceeding bearing HMP No.1594/2023 pending before the Civil Judge, Senior Division, Pune be transferred to the Civil Judge, Senior Division, Amravati for adjudication.
- (iii) The Civil Judge, Senior Division, Pune shall send the record and proceedings of Petition No.HMP 1594/2023 to the Civil Judge, Senior Division, Amravati.
- (iv) The parties shall remain present before the Civil Judge, Senior Division, Amravati on 18/02/2025.
- (v) The non-applicant can avail the facility of Video Conferencing and the Civil Judge, Senior Division, Amravati shall consider his request to appear through Video Conferencing.

8. The application is disposed of.

(URMILA JOSHI-PHALKE, J.)