



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

MISC. CIVIL APPLICATION NO. 539 OF 2025

Rizwana Parveen w/o Sk. Wasim ... APPLICANT

Versus

Sk. Wasim s/o Sk. Yaqub ... NON-APPLICANT

Mr. S. B. Gandhe, Advocate for Applicant.
None for the Non-applicant.

CORAM : PRAVIN S. PATIL, J.
DATE : OCTOBER 13, 2025.

ORAL ORDER

. Heard Mr. S. B. Gandhe, learned Counsel for Applicant. None appeared for the Non-applicant, though served.

2. By the present Application, the Applicant/wife is seeking transfer of Regular Civil Suit No. 38/2024 pending on the file of Civil Judge Junior Division, Malegaon to the Family Court at Buldhana.

3. This Court, vide order dated 22/8/2025, issued notice to the Non-applicant/husband and as per the office note, it appears that the same was served on the Non-applicant. Accordingly, this Court, on 6/10/2025, in order to grant one more opportunity to the Non-applicant, adjourned the matter and kept today for final disposal. But, today in the morning session as also in the

afternoon session, none appeared for the Non-applicant. Hence, the present Application is taken up for final disposal on its own merits.

4. It is the submission of the present Applicant that before filing the Regular Civil Suit No. 38/2024 by the Non-applicant at Malegaon, she has already preferred Application under Section 125 of the Code of Criminal Procedure bearing Petition No. E-43/2024 before the Family Court at Buldhana and the proceedings under the provisions of Protection of Women From Domestic Violence Act bearing PWDVA Application No. 29/2024 before the Chief Judicial Magistrate, Buldhana.

5. It is further submitted by the Applicant that she is having two daughters aged about 4 years and 2 years respectively. It is further stated that only to harass the present Applicant and to cause her inconvenience, the Non-applicant has filed Regular Civil Suit No.38/2024 at Civil Judge Junior Division, Malegaon for restitution of conjugal rights. Hence, she seeks transfer of the said Regular Civil Suit from Malegaon to Buldhana on the abovestated grounds raised by her in the Application.

6. The grounds raised by the Applicant are not controverted in the matter.

7. As per the law laid down by the Hon'ble Supreme Court of India in the case of *N.C.V Aishwarya V/s A. S. Saravana Karthik Sha, 2022 SCC OnLine SC 1199* more particularly in respect of consideration of transfer of matrimonial proceedings, has specifically observed in paragraph Nos.9 and 10 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.

10. Further, when two or more proceedings are pending in different Courts between the same parties which raise common question of fact and law, and when the decisions in the cases are interdependent, it is desirable that they should be tried together by the same Judge so as to avoid multiplicity in trial of the same issues and conflict of decisions.”

8. The ratio laid down by the Hon'ble Supreme Court of India is squarely applicable in the present matter. The proceedings, which the

Applicant has filed before the Chief Judicial Magistrate, Buldhana and Family Court at Buldhana are arising out of the matrimonial dispute, whereas, the Regular Civil Suit filed by the Non-applicant is also arising out of the matrimonial dispute. Hence, both the proceedings are inter-dependable against each others. Hence, in view of the law laid down by the Hon'ble Supreme Court of India is squarely applicable in the present case.

9. In addition to above, the Applicant has specifically stated that she is having two daughters aged about 4 years old and 2 years old respectively. Hence, admittedly she will cause inconvenience to travel from Buldhana to Malegaon. It is also pertinent to note that the Non-applicant is already attending the proceedings at Buldhana and he has no grievance in the pending proceedings, hence no prejudice will be caused to the Non-applicant if the proceedings filed by him are transferred at Buldhana. In the circumstances, I proceed to pass following order.

ORDER

1. Misc. Civil Application is allowed.
2. The Regular Civil Suit No. 38/2024 pending on the file of Civil Judge Junior Division, Malegaon is hereby transferred to the Family Court at Buldhana.

3. The learned Civil Judge Junior Division, Malegaon is directed to handover/transfer the record and proceeding of Regular Civil Suit No. 38/2024 to the Family Court at Buldhana.
4. Parties are directed to appear before the Family Court at Buldhana on 11th November, 2025.
5. No order as to costs.

[PRAVIN S. PATIL, J.]

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