



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

MISC. CIVIL APPLICATION NO. 594 OF 2025

Nigahe Anjum w/o Junaid Ahmed Raza
and d/o Mohammad Rafique, Aged about :
36 Years, Occupation : Household; Residing
at : Plot No. 57, Kalmegh Nagar, Near
Lokmanya Metro Station, Hingna Road,
Nagpur-440016.

... APPLICANT

VERSUS

Junaid Ahmed Raza S/o Mohammad
Naseem Parvez, Aged about : 38 Years,
Occupation : Service; Residing at – 604, R
Eophoria Society Phase-II, B-14, Near Talab
Factory Kondhwa, Pune-411048.

... NON -APPLICANT

Ms. Sakshi Tiwari, Advocate (Appointed) for Applicant.
None for the Non-applicant.

CORAM : PRAVIN S. PATIL, J.

DATE : NOVEMBER 28, 2025.

JUDGMENT

. Heard Ms. Sakshi Tiwari, learned Counsel (Appointed) for
Applicant. None appeared for the Non-applicant, though served.

2. By this Application, the Applicant/wife is seeking transfer of
proceeding bearing Marriage Petition No. A-1773/2024 filed by the Non-
applicant for restitution of conjugal rights under the provisions of

Mohammedan Law, pending before the Family Court, Pune to the Family Court, Nagpur.

3. The ground raised by the Applicant is that distance between Pune to Nagpur is near about 700 kms. The Applicant is residing with her parents at Hingna, Nagpur. Her father is suffering from paralysis and he needs constant care and attention. The Applicant is suffering from Cholelithiasis with signs of Chronic Cholecystitis which leads to inflammation of gallbladder. Accordingly, she is taking treatment at G. T. Padole Hospital and Shalinitai Meghe Hospital and Research Center. It is also stated that the Non-applicant is negligent to look after her and not paying any maintenance to her. Hence, on these counts, it is her submission that it will be difficult for her to attend the proceeding from Nagpur to Pune, and therefore, she seeks transfer of the proceeding at Nagpur.

4. It is pointed out that the Non-applicant is doing a private job at Pune and he can very well attend the proceeding if the same is transferred at Nagpur.

5. It is pertinent to note that the notice of this Court is duly served

on the Non-applicant and in addition to the same, notice by private mode was also served by the Applicant, however, the Non-applicant has chosen to remain absent in the matter. Today, in order to grant one more opportunity, when the matter was called out in the morning session, same was kept in the afternoon session, but none appeared for the Non-applicant in the matter. Hence, I proceed to decide the matter on its own merits.

6. In the light of submissions made by the learned Counsel for Applicant in the matter, which are not controverted, the Judgment of 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***, is relevant to be referred in the present matter. In the said decision the Hon'ble Supreme Court of India has held that by considering the background and circumstances of the matter, the evidence of wife should be considered by the Court, and accordingly, 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."

7. In the present matter, Applicant specifically raised the health issue of herself as well as her father. To substantiate this submission, she has placed on record the documentary evidence. So also distance between Nagpur to Pune of 700 kms cannot be disputed in the matter. All these averments are on affidavit. Hence, there is no reason to disbelieve the same.

8. In the light of the grounds raised by the Applicant, and more particularly, the distance between Pune and Nagpur and her medical issue which she has specifically stated in her application and the documents filed on record, I am of the opinion that Applicant has made out a case for transfer of the proceeding from Pune to Nagpur. Hence, I Proceed to pass following order.

ORDER

- (a) The Misc. Civil Application is allowed.
- (b) The proceeding bearing Petition No. A-1773/2024 pending on the file of Family Court, Pune is hereby transferred to the Family Court, Nagpur.
- (c) It is made clear that the Non-applicant can attend the proceeding through Video Conferencing, if he is unable to attend the proceeding physically on each and every dates.
- (d) It is made clear that the Non-applicant will secure his physical attendance as and when required before the Family Court at Nagpur.
- (e) The Family Court, Pune is requested to transfer the Record and Proceedings of Petition No. A-1773/2024 to the Family Court, Nagpur.
- (f) Ms. Sakshi Tiwari, the learned appointed Counsel for Applicant is appeared in the matter on behalf of the Applicant. Her professional fees be quantified as per Rules.

[PRAVIN S. PATIL, J.]