



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

907 MISC.CIVIL APPLICATION NO. 49 OF 2025

MOHINI SHRIKANT GHODKE @ MOHINI SOMNATH TURAI

....Applicant

VERSUS

SOMNATH BHAUSAHEB TURAI

.....Respondent

Mr. Sheetal V. Salunke, Advocate for the Applicant.
None appeared for the Respondent.

CORAM : ABHAY J. MANTRI, J.

DATE : 16th APRIL, 2026

PER COURT :

1. Heard the learned Advocate for the Applicant.
2. None appeared for the Respondent either in the court hall or through VC mode, though the Respondent appeared in the matter and filed an Affidavit in Reply.
3. The Applicant has moved this Application under Section 24 of the Code of Civil Procedure for the transfer of the proceeding bearing No. 04 of 2025 pending before the learned District Court, Sangali, for custody of the child to the learned District Court at Osmanabad.
4. Perused the Application, Affidavit in Reply and record.

5. It appears from the record that on 12-08-2025, this court referred the matter for Mediation and directed the parties to appear before the Mediator on 21-08-2025. The Mediator vide communication dated 04-11-2025, informs this court that mediation has failed. Thereafter, the Respondent filed an Affidavit-in-Reply to the Application on 18-12-2025.

6. At the outset, it appears that the marriage between the Applicant and the Respondent took place on 21-11-2011 and during wedlock, they have begotten two children. On 19-06-2019, the respondent beat the Applicant and drove her out. Since then, she has been residing at Osmanabad with her mother. Thereafter, in the year 2022, the Applicant filed the proceeding under the provisions of the Protection of Women from Domestic Violence Act against the respondent before the CJM, Osmanabad. To counter the said proceeding, the respondent has filed an application under Section 25 of the Guardian and Wards Act, seeking custody of the children.

7. It is contended that the applicant is residing with her mother at Osmanabad, and it is very difficult for her to travel from Osmanabad to Sangli, which is 260 km away from Osmanabad. It is inconvenient for her to stay in Sangli and attend the court. Therefore, the applicant has moved this application.

8. By filing the Affidavit in Reply, the Respondent resisted the Application, contending that the averments made in the Application are false. The proceedings under the D.V. Act and the proceedings under the Guardian and Wards Act are independent, and both can be tried separately. He denied the grounds raised in the Application in toto. Lastly, it is contended that the Applicant fails to demonstrate her inability to travel from Osmanabad to Sangli to attend the court proceedings. Therefore, he urged that the Application be rejected.

9. Having considered the rival contention of the parties, at the outset, it appears that the Respondent does not dispute his relationship with the Applicant, and she is residing at Osmanabad with her mother. The only contention of the learned Advocate for the Respondent is that the Applicant failed to demonstrate how inconvenience would be caused to her to attend the proceeding at Sangli. However, I do not find any merit in his contention in that regard, as the Hon'ble Apex Court time and again reiterated that in matrimonial proceedings, for the convenience of the wife, the matter shall be transferred to the court where she resides.

10. Undisputedly, the Applicant is residing at Osmanabad, and she has two children; it is inconvenient for her to travel and attend the proceedings at Sangali, which is 260 km away. On the

contrary, the Respondent has no difficulty in attending the court at Osmanabad.

11. The Hon'ble Supreme Court in the Case of *N.C.V Aishwarya Vs. A. S. Saravana Karthik Sha reported in AIR Online 2022 SC 1268* has observed that 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, they must take into account the economic soundness of both parties, the social strata of the spouses, their behavioural patterns, their standard of life before and after the marriage, and the circumstances. The court also has to exercise interference when one proceeding is pending before one court and another proceeding is pending before another court; in such events, it would be appropriate to transfer all proceedings to one court to avoid inconvenience to the wife. Apart from that, the Hon'ble Supreme Court, in a catena of judgments, has held that it would be appropriate to transfer the proceedings to the place where the wife resides to avoid causing her any inconvenience.⁷.

12. Having considered the above facts that the Applicant has no income source and it is inconvenient for her to travel and attend the proceedings filed by the husband, it apparently indicates that she

will have to endure hardship and suffering. Consequently, in view of the dictum laid down by the Hon'ble Apex Court in the Case of *Aishwarya (supra)*, in my opinion, it would be appropriate to transfer the proceeding bearing No. 04 of 2025 pending before the learned District Court, Sangali, to the learned District Court at Osmanabad.

13. As a result, *the Application is allowed in terms of the prayer clause B.*

14. The Application is disposed of. No order as to costs.

[ABHAY J. MANTRI, J.]

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