

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****MISCELLANEOUS CIVIL APPLICATION NO. 325/2025****TEJASWINI SANDIP NAIKWADI****..... APPLICANT****VS****SANDEEP BAPURAO NAIKWADE****..... RESPONDENT**

None for the Applicant.

Adv. Sagar Sonawane a/w. Adv. Madhusmita Sahoo for the Respondent.

CORAM : RAJESH S. PATIL, J.**DATE : 18 MARCH, 2026****P.C. :-**

1) Mr.Sonawane, learned advocate appearing for the respondent-husband submits that even after the mediation had failed, still attempts were made to settle the disputes between the parties. However, even that attempts have failed.

2) Hence, I have proceeded to hear the miscellaneous civil application on merits.

3) By the present transfer application, the applicant, who is the wife of the respondent is seeking transfer of the Guardianship Petition filed by the wife under the Guardians and Wards Act, 1890 from the District Court, Islampur to the Family Court, Bandra, Mumbai.

4) Mr. Sonawane fairly agrees that as of today, son of the

applicant and the respondent who is aged 10 years is residing with the applicant – wife in Mumbai. He is studying in School in Mumbai. Roughly the distance between Mumbai and Islampur is around 352 kms. The Applicant is a homemaker. He submits that the applicant has forcefully taken away the custody of the son of the applicant and the respondent who is aged 10 years from the respondent, into her custody at Mumbai. Therefore this Court should not transfer the guardianship petition.

5) I have heard Mr.Sonawane, learned advocate for the respondent and I have gone through the documents on record.

6) The Hon'ble Supreme Court in case of ***N.C.V. Aishwarya vs. A.S.Saravana Karthik Sha***, reported in ***2022 SCC OnLine SC 1199*** has held that the convenience of the wife has to be seen for the transfer proceedings. Paragraph no.9 of the said judgment reads 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.

(Emphasis supplied)

7) Admittedly, the applicant is seeking transfer of her own proceeding. She is at present residing with her parents in Mumbai. Her son aged 10 years is also residing with her and is admitted in a school in Mumbai. Hence, according to me, considering the facts of the present case and the law laid down by the Hon'ble Supreme Court in case of *N.C.V. Aishwarya* (supra), this transfer application needs to be allowed.

8) The present **miscellaneous civil application is allowed in terms of prayer clause (a).**

9) The proceedings of Civil Miscellaneous Application No. 12 of 2024 pending before the District Court, Islampur be transferred within a period of four weeks to the Family Court, Bandra, Mumbai and to be heard on merits.

10) The **Registrar (Judicial-I)** is hereby directed to communicate the order passed today to the **Registrar of the District Judge - 2, Islampur by E-mail.**

[RAJESH S. PATIL, J.]