

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

MISCELLANEOUS CIVIL APPLICATION NO. 339 OF 2025

Vaibhavi Vaibhav Phadnis

..Applicant

Versus

Vaibhav Anant Phadnis

..Respondent

Mr. Sanjay D. Bhate, Advocate, for the Applicant

Mr. Siddhant Deshpande i/b. Mr. A. R. Avachat, Advocates, for the Respondent

CORAM : RAJESH S. PATIL, J.

DATE : 22.12.2025

P. C.

1. Mr. Bhate, learned Counsel for the Applicant submits that the mediation between the parties has failed and parties are present in Court.

2. Learned Counsel for the Applicant further submits that he had telephonic call with the learned Counsel for the Respondent who has informed him that his client has no objection, if the proceeding, being Custody Petition No. D/39 of 2024 pending before the learned Family Court, Pune is transferred to the learned Family Court, Bandra, Mumbai.

3. This is a transfer Petition filed by the Applicant – wife seeking transfer of the custody Petition filed by the husband in the Family

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Court, Pune to the Family Court at Bandra. It is the case of Applicant that the Respondent is working for gain in Middle East. Therefore, it will not make any difference to the Respondent if the proceedings are transferred to the Family Court at Bandra.

4. It is further stated in the Petition that there is a child born out of the wedlock who is 4 ½ years old, and is suffering from mild autism.

5. The Supreme Court in the case of ***N. C. V. Aishwarya vs. A. S. Sarvana Karthik Sha***, reported in ***2022 SCC OnLine SC 1199*** has held that while deciding transfer proceedings, convenience of the wife has to be taken into consideration. Paragraph 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 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)

6. Considering the law laid down by the Supreme Court in the case

of *N. C. V. Aishwarya* (Supra) and facts of the present case, more particularly, the Respondent is working in Middle East, hence, according to me, a case is made out to allow the present MCA.

7. The Miscellaneous Civil Application **stands allowed** in terms of **prayer clause (a)**.

8. The proceeding, being Custody Petition No. D/39 of 2024 pending before the learned Family Court, Pune be transferred to the learned Family Court, Bandra, Mumbai within a period of four weeks from today.

9. The hearing of both the Petitions is hereby expedited. Both the Petitions be heard by one and the same Judge.

(RAJESH S. PATIL, J.)