

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****MISCELLANEOUS CIVIL APPLICATION NO. 85 OF 2026****JASMIN ASIF MANER****..... APPLICANT****VS****ASIF SIKANDAR MANER****..... RESPONDENT**

Adv. Anil V. Wani for the Applicant.

Adv. Vikas Shivarkar for the Respondent.

CORAM : RAJESH S. PATIL, J.**DATE : 8 APRIL, 2026****P.C. :-**

1) The present transfer application has been filed by the applicant-wife of the respondent, seeking transfer of two proceedings filed by the respondent-husband (i) proceedings pending before the Civil Judge Senior Division, Pen, District Raigad being suit for declaration and specific performance of restitution of conjugal rights filed under Section 34 of the Specific Relief Act alongwith Section 281 of the Mohammedan Law to the Civil Judge Senior Division, Junnar, District Pune and (ii) custody petition filed before the Family Court, Alibaug, District Raigad to the Civil Judge Senior Division, Junnar, District Pune.

2) It is the case of the applicant that she was thrown out of the matrimonial house by the respondent-husband alongwith her

three children aged viz., son aged 12 years and twin daughters aged 7 years. She is taking shelter in her parents' house at Junnar alongwith her three children. She is a home-maker and the respondent-husband is in service in educational field. The distance between Junnar, District Pune and District Raigad is around 200 kms. The respondent-husband is not paying any maintenance to her or to her children. Therefore, if the proceedings are transferred to Junnar, District Pune, it will be convenient for her to attend the court proceedings. There is no male member in the family of the applicant who could accompany her to attend the court proceedings at two different courts, one at Pen and another at Alibaug, District Raigad.

3) On behalf of the respondent-husband learned advocate Mr. Shivarkar appeared and submitted that in the present transfer application filed under Section 24 of the Code of Civil Procedure, 1908 (for short "CPC"), two proceedings are sought to be transferred to Junnar, District Pune. This is not permitted under Section 24 of the CPC as the wording of Section 24 mentions about an application. Hence, the applicant should have filed two different applications. The respondent is paying school fees of his children. The respondent at present is jobless and does not have any source of income. He is only taking home tuitions on which he survives. As far as DV proceedings

are concerned, they are filed by the applicant before the Judicial Magistrate First Class at Junnar, District Pune. The petition for quashing of the same has been filed before this Court. So also, another quashing proceeding is filed challenging the FIR lodged by the applicant. Hence, there is no merit in the miscellaneous civil application and the same should be rejected.

4) The argument on behalf of the respondent's advocate that Section 24 mentions about the singular application and therefore two proceedings can't be transferred by one single application, according to me, it has no merit and in my view when a word 'application' is used in Section 24 of CPC, it always means more than one proceeding can be sought to be transferred.

5) 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 while deciding 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)

6) The applicant-wife who is a home-maker is staying with her three school going children, aged 12 and 7 years at her parents' house at Village Hiware Budruk, Taluka Junnar, District Pune. The respondent who is having doctorate in Chemistry, is not paying any maintenance to the children nor to his wife. When a query was put to him whether he would like to pay any interim maintenance to the wife and children without prejudice to his rights and contentions, there was no positive answer to the same and it was submitted that the proceedings are pending before the Trial Court and they are waiting for an order being passed by the said Court. Admittedly, the distance between Junnar, District Pune and District Raigad is around 200 kms, which means the travel time would be around 5 – 6 hours.

7) 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), in my view, the present miscellaneous civil application

requires to be allowed.

8) 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), in my view, the present miscellaneous civil application **stands allowed in terms of prayer clause (b).**

9) Both the proceedings being RCS No. 66 of 2025 pending before the Civil Judge Senior Division, Pen, District Raigad and Custody Petition bearing No. D-5 of 2025 pending before the Family Court, Alibaug, District Raigad be transferred within four weeks to the Civil Judge Senior Division, Junnar, District Pune.

10) Learned advocate for the applicant is permitted to communicate the order passed today to the Civil Judge Senior Division, Pen, District Raigad and to the Judge of the Family Court, Alibaug, District Raigad.

11) Similarly, **Registrar (Judicial-I)** is hereby directed to communicate the order passed today to the **Registrar of the** Civil Judge Senior Division, Pen, District Raigad and to the Judge of the Family Court, Alibaug, District Raigad **by E-mail.**

12) The parties to act on the authenticated copy of this order.

(RAJESH S. PATIL, J.)