

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

MISCELLANEOUS CIVIL APPLICATION NO. 90 OF 2026

Ganesh Pandurang Mali ..Applicant

Versus

Yogeshwari Ganesh Mali alias ..Respondent
Yogeshwari Avinash Ekhande

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MISCELLANEOUS CIVIL APPLICATION NO. 31 OF 2026

Yogeshwari Ganesh Mali alias ..Applicant
Yogeshwari Avinash Ekhande

Versus

Ganesh Pandurang Mali ..Respondent

Mr. Rohit D. Gorade, Advocate, for the Applicant in MCA No. 31 of 2026 and for the Respondent in MCA No. 90 of 2026
Mr. Satyajeeet P. Dighe, Advocate, for the Applicant in MCA No. 90 of 2026 and for the Respondent in MCA No. 31 of 2026

CORAM : RAJESH S. PATIL, J.

DATE : 18.03.2026

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MISCELLANEOUS CIVIL APPLICATION NO. 90 OF 2026

1. This Application has been filed by the Applicant, who is the husband of the Respondent – wife, seeking transfer of the Application filed under Section 9 of the Hindu Marriage Act, 1955 for restitution of conjugal rights filed by the Respondent – wife pending before the

C.J.S.D., Dhule to the Family Court, Nasik.

MISCELLANEOUS CIVIL APPLICATION NO. 31 OF 2026

1. Mr. Gorade, Advocate for the Applicant seeks liberty to amend prayer clause (a) of the Application by deleting the words “Family Court at Dhule” and replacing them with “Civil Judge, Senior Division, Dhule”

1.1 Liberty as prayed for is granted. Amendment to be carried out forthwith.

2. This Application has been filed by the Applicant, who is the wife of the Respondent – husband, seeking transfer of the husband’s divorce Petition pending before the Family Court, Nasik to the Family Court, Dhule.

3. The Applicant – wife is staying at Pimpalner, District – Dhule along with her daughter, aged 2 years. The nearest Court to her, where she has filed an Application under Section 9 of the Hindu Marriage Act, 1955 for restitution of conjugal rights before the C.J.S.D., Dhule. The Respondent – husband is working as forest officer at Umbarthan, District – Nasik. He has filed a divorce proceeding before the Family Court, Nasik. The distance between Umbarthan and Nasik is around 120 Km..

4. Even if the husband's Application is allowed and the proceeding is transferred to the Family Court, Nasik, the husband will have to travel around 120 Km which will take roughly three hours.
5. The wife is staying at Pimpalner and the distance between Pimpalner and Nasik is around 140 Km.. Therefore, she will have to travel roughly three and half hours. Hence, she has filed her Application in the nearest Court to her which is C.J.S.D., Dhule. The distance between Dhule and Nasik is roughly around 160 Km.. Therefore, she will have to travel around four hours. Therefore, it will be inconvenient to her.
6. 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)

7. Considering the law as laid down by the Supreme Court in the case of ***N. C. V. Aishwarya*** (supra) and facts of the present cases, suffice would be the purpose, if both the proceedings are clubbed together and heard by one and the same Judge at Dhule and the Respondent – husband is permitted to attend the Court proceeding through VC.
8. In view of the same, the Respondent - husband's transfer Application, being **MCA No. 90 of 2026 stands dismissed.**
9. The Applicant – wife's transfer Application, being **MCA No. 31 of 2026 stands allowed in terms of prayer clause (a).**
10. The proceeding, being the Petition No. A-778 of 2025 pending before the Family Court, Nasik be transferred to the C.J.S.D., Dhule and be heard along with the HMP No.08 of 2026. Both the proceedings be heard by one and the same Judge.
11. The husband – Mr. Ganesh Pandurang Mali is permitted to attend the Court proceeding before the learned C.J.S.D., Dhule through video conferencing. However, whenever necessary, as per the directions of the learned Judge taking up the matter, the Respondent will have to attend the proceedings in person.

12. Learned Counsel for the Applicant is hereby directed to convey the order passed today to the Family Court, Nasik who is hearing the matrimonial proceedings and file affidavit to that effect within a period of two weeks from today.

13. The Registrar (Judicial-I) is hereby directed to communicate the order passed today to the Registrar of the Family Court, Nasik by Email.

14. All concerned to act on the authenticated copy of this order.

(RAJESH S. PATIL, J.)