



IN THE HIGH Court OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
MISCELLANEOUS CIVIL APPLICATION NO.312 OF 2024

[REDACTED]]
[REDACTED]]
[REDACTED]]
[REDACTED]] ...Applicant.

[REDACTED]

[REDACTED]]
[REDACTED]]
[REDACTED]]
[REDACTED]]
[REDACTED]]
[REDACTED]]
[REDACTED]]
[REDACTED]] ...Respondent.

WITH
MISCELLANEOUS CIVIL APPLICATION NO.42 OF 2024

[REDACTED]]
[REDACTED]]
[REDACTED]]
[REDACTED]]
[REDACTED]] [REDACTED]

Versus

1. Manoj Nana Sattyavijay,]
A [REDACTED]]
[REDACTED]]
[REDACTED]]
[REDACTED]]
[REDACTED]]
[REDACTED]]
[REDACTED]]
[REDACTED]] ...Respondent.



Mr. Shantanu Deshpande (VC) a/w. Adv. Aishwarya Gaikwad i/by Divya Pawar for the Applicant in MCA/312/2024 and for the Respondent in MCA/42/2024.

Mr. Mahendra M. Agavekar for the Applicant in MCA/42/2024 and for the Respondent in MCA/312/2024.

CORAM : KAMAL KHATA, J.
RESERVED ON : 22nd August, 2025.
PRONOUNCED ON : 3rd September 2025.

JUDGMENT:

1) There are two Transfer Applications before this Court: Miscellaneous Civil Application No.312 of 2024 filed by the Applicant-husband and Miscellaneous Civil Application No.42 of 2025 filed by the Applicant-wife.

2) By the Application No. 312 of 2024, the Applicant-husband seeks transfer of Marriage Petition A-472 of 2023 filed by the Respondent-wife before the Family Court, Thane to Civil Judge Senior Division, District, Dhule to be clubbed and heard alongwith Hindu Marriage Petition (H.M.P.) No. 175 of 2023.

3) By the Application No. 42 of 2024, the Applicant-wife seeks transfer of the Hindu Marriage Petition (H.M.P.) No. 175 of 2023 filed before Joint Civil Judge Senior Division, Dhule to Principal Judge Family Court, Thane to be clubbed and heard along with



Marriage Petition A-472 of 2023 .

4) Mr. Agavekar, learned Advocate for the wife, submitted that on account of persistent dowry demands, the wife was subjected to ill-treatment, humiliation and mental harassment by the husband and his family members, despite several demands being met both before and after marriage, as set out in paragraph 3 to 5 of the Petition. On 8th December 2022, the husband and his family picked up a serious quarrel with the wife, accusing her of infidelity. When the dispute could not be resolved even with the intervention of her parents, she had no option but to leave the matrimonial home. The wife made serious attempts to restore matrimonial relations, but even notices sent by her were returned unserved by the postal authority. She consequently filed a Petition under Section 9 of the Hindu Marriage Act 1955 for restitution of conjugal rights on 13th September 2023. While awaiting service of the Petition, the husband, by way of counterblast, filed H.M.P. 175 of 2023 seeking divorce before Civil Judge Senior Division, Dhule. Hoping for reconciliation, the wife attended counselling sessions before the Court on 6th October 2023, 7th November 2023, 22nd November 2023 and on 21st December 2023, but all efforts proved unfruitful.

5) The learned Advocate further submits that the wife a non-working lady, entirely dependent on her aged and ailing parents,



and belongs to a family of limited means. Her father, a heart patient, earns about ₹ 14,000/- per month as a watchman with a builder, while her mother is a homemaker. It is therefore contended that the expenses for travelling to Dhule are unaffordable.

6) Reliance is placed on *N.C.V. Aishwarya v. A.S. Saravana Karthik Sha*¹, *Arundhati Devendra Pathak vs. Devendra Niteen Phatak*² and *Devika Dhiraj Patil vs. Dhiraj Sunil Patil*³ to submit that while considering transfer of matrimonial proceedings, the Courts must have regard to the economic condition, social background and overall circumstances of both parties, including their behavior pattern, the standard of life before and after marriage, and circumstances under which they are compelled to sustain themselves. It is urged that, in view of the above caselaw, the wife's convenience ought to prevail.

7) Comparing the present case with the above authorities, the learned Advocate submitted that the Court must take into account the wife's condition and her complete dependence on her parents, who belong to a lower socio-economic strata of society. It is urged that the wife would be compelled to travel alone for the proceedings without any family support, thereby causing not only physical inconvenience but also emotional and psychological

¹ 2022 SCC OnLine SC 1199.

² 2023:BHC-AS:3208 decided on 20th January 2023.

³ 2023 (5) ALL MR 519 decided on 8th September 2023.



hardship. Accordingly, it is submitted that the wife's transfer application deserves to be allowed.

8) *Per Contra* Mr. Shantanu Deshpande, learned Advocate for the Applicant-husband, submits that the marriage between the parties was solemnized as per the Hindu Vedic rights at Dhule, under the provisions of the Hindu Marriage Act, 1955 on 3rd June 2011. Out of the wedlock, two daughters were born, now aged 12 years and 6 years respectively.

9) It is submitted that the marriage itself was contracted by the wife under undue pressure from her parents. The Applicant-husband, however, hoped that in due course the relationship would improve. Instead, he alleges that the wife was found committing adultery and upon being confronted, thereafter, around December 2022, she voluntarily left the matrimonial home and began residing with her parents. In these circumstances, the Applicant-husband instituted a Petition for annulment of marriage under Section 13 (1) (1a) of the Hindu Marriage Act, 1955 before CJSD, Dhule. As a counter blast, the wife filed a Petition for restitution of conjugal rights under section 9 of the Hindu Marriage Act at Thane.

10) It is further submitted that the Applicant-husband runs a small kirana (grocery) shop in his village at Dhule. The two minor children reside with him and are being cared for with the assistance



of his aged parents. It is urged that the wife has previously travelled between Thane and Dhule, and in any case, she has made no specific averments of hardship or insurmountable inconvenience in doing so. A general plea of inconvenience, it is submitted, cannot constitute a valid ground for invoking this Court's jurisdiction to transfer proceedings. The learned Advocate further submits that the husband is willing to reimburse the actual travel expenses of the wife, along with those of one person accompanying her. He adds that the husband has daily responsibilities of dropping and collecting the children from school, besides attending to his kirana shop, which is attached to his residence and enables him to simultaneously keep an eye on the children. Thus, he shoulders the dual responsibility of caring for his parents and children while managing the shop which is his sole source of livelihood.

11) Reliance is placed on the following decisions; *Supriya vs. Kamlesh*⁴, *Sushmitha B.L. vs. Raghavendra B.R.*⁵, *Neelam Bhatia vs. Satbir Singh Bhatia*⁶, *Ketaki Prathamesh Salekar vs. Prathmesh Ashok Salekar*⁷ and *Harsha Sharma vs. Rakesh Sharma*⁸ to submit that the Courts have consistently held that the mere fact of long distance travel cannot, by itself, constitute a sufficient ground for

⁴ 2017 (5) Mh.L.J. 642.

⁵ 2025 (2) Civil CC, 2025: KHC:263.

⁶ Manu/SC/1340/2004.

⁷ 2020 DGLS (Bom.) 1206. 2021(2)All.M.R. 66.

⁸ Manu/MP/2553/2022.



transfer of proceedings. It is urged that the balance of convenience clearly tilts in favour of the husband, who has to simultaneously manage the upbringing of the children, the care of his aged parents, and the operation of his Kirana shop, which cannot be entrusted to anyone else. In these circumstances, it is submitted that no prejudice would be caused to the wife if she is required to attend Court at Dhule, particularly since the husband has undertaken to reimburse her travel and incidental expenses. Accordingly, it is prayed that the husband's Application be made absolute.

12) Having considered the rival submissions, this is indeed a peculiar case where both parties face genuine hardships, and the balance of convenience is not easy to determine. On the one hand, the husband runs a Kirana shop which demands his continuous personal presence, while also bearing the responsibility of caring for his two school going children and aged parents. On the other hand, the wife, being semi-literate and financially constrained, finds it difficult to sustain herself and is dependent on her parents.

13) The attempt at settlement through a mediation has evidently failed. Both parties remain steadfast in their respective stands - the wife seeking restitution of conjugal rights and the husband pressing for divorce. In these circumstances, the Court is called upon to decide the rival transfer applications.



14) Having regard to the totality of the facts, I find the balance of convenience in favour of the husband. His responsibilities towards his two young children, his aged parents, and the management of his livelihood are such that directing him to contest the proceedings at Thane would cause substantial hardship. The wife, though semi-literate and financially constrained, has not demonstrated that travelling from Thane to Dhule is impossible. The only inconvenience for the wife would be the cost of travel, which stands adequately addressed by husband's undertaking to reimburse all such expenses, including those of a companion travelling with her. In these circumstances, it would be appropriate that the proceedings be transferred from Thane Court to Dhule Court.

15) Accordingly, the Application of the husband namely Miscellaneous Civil Application No.312 of 2024 is allowed in terms of prayer clause (a).

16) Consequently, Miscellaneous Civil Application No.42 of 2024 filed by the wife is rejected.

(KAMAL KHATA, J.)