

IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION

TRANSFER PETITION (CIVIL) NO. OF 2024

**(PETITION UNDER SECTION 25 OF THE
CODE OF CIVIL PROCEDURE, 1908)**

IN THE MATTER OF :-

Karuna Bipin Atyale

....Petitioner

V/s

Bipin Prabhakar Atyale

....Respondent

WITH

I.A. NO. _____ OF 2024

(Application for stay)

P A P E R B O O K

(FOR INDEX KINDLY SEE INSIDE)

**ADVOCATE FOR THE PETITIONER:
DR. RAVINDRA S. CHINGALE**

IN THE SUPREME COURT OF INDIA

TRANSFER PETITION (Cs) NO. OF 2024

Diwaker BagriRespondent

1. The Petition is/are within limitation
2. The Petition is barred by time and there is delay ofdays in filing the same against order dated and petition for Condonation ofdays delay has been filed.
3. There is delay of days in Refiling the petition and petition for Condonation of days delay in Refiling has been filed.

Dated: 05.08.2024

Annexure P-1

IN THE COURT OF HON'BLE PRINCIPAL FAMILY JUDGE AT
BENGALURU

AT NAYADEGULA

M.C. No. 5182 of 2023

Mrs. Karuna Bipin Atyale
Age 35 years Occ: Professional
Religion Buddhist
Address: 415 1st Floor Mallappa Reddy Layout
2nd Cross, Koramangala 8th Block, Bengaluru – 560095
Email: kamblekaruna87@gmail.com
Ph: 9844301891

.....Petitioner

V/s.
Mr. Bipin Prabhakar Atyale
Age 40 years Occ: Software
Religion Buddhist
Address: C/304 Shreeji Park Behind Shree Complex Phase 3
Adharwadi Jail Road, Kalyan West – 421301
Email: Atvalebipin@gmail.com
Ph: 9892445415

.....Respondent

MEMORANDUM OF PETITION U/S 13(1)(I) & (I-A) R/W SECTION 25
OF THE HINDU MARRIAGE ACT, 1955

The Petitioner most respectfully submits as follows:

ADDRESS FOR SERVICE OF SUMMONS:

1. The Address of the petitioner for the purpose of service of notice/summons is as mentioned in the cause title above.



Annexure P-4

MAMMOOR ⁴⁴WELFARE TRUST[®]

Empowering Humanity through Health and Education

737, 17th B Main Road, 6th Block, Koramangala, Bengaluru - 560 095.
Email: mamoorwelfaretrust@gmail.com Website: www.mamoorwelfaretrust.org

10th August 2023

To Whom Ever It Concern

This is to certify that **Ms. Karuna Kamble** is an employee of Mamoor Welfare Trust ® working as a Duty Doctor at Mamoor Health Centre from 1st June 2018.

We found Ms. Karuna Kamble to be knowledgeable and result-oriented with practical understanding as a duty doctor at Mamoor Health Center. Overall she is performing her duties and responsibilities at all times. We appreciate her work and contributions.

IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION

I.A.NO. _____ OF 2024

IN

TRANSFER PETITION (CIVIL) NO. _____ OF 2024

IN THE MATTER OF :-

Karuna Bipin Atyale

....Petitioner

V/s

Bipin Prabhakar Atyale

....Respondent

APPLICATION FOR STAY

The Hon'ble Chief Justice of India and

His Companion Judges of the Supreme Court of
India.

The humble application of the petitioner abovenamed;

MOST RESPECTFULLY SHOWETH:-

1. This transfer petition is being filed under Section 25 of the Code of Civil Procedure, 1908 for seeking transfer of divorce proceedings being M.P. No. 1230 of 2023 u/s 13 (1) (ia) of Hindu Marriage Act, 1955 filed by the respondent

IN THE SUPREME COURT OF INDIA

(CIVIL ORIGINAL JURISDICTION)

TRANSFER PETITION (C) NO. OF 2024

IN THE MATTER OF :

Karuna Bipin Atyale

....Petitioner

V/s

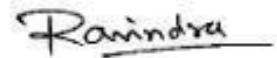
Bipin Prabhakar Atyale

....Respondent

I N D E X

SL. NO	PARTICULARS	Copies	COURT FEES
1.	O/R	1+3	
2.	L/P		
3.	Synopsis and list of dates		
4.	TP With Affidavit		
5.	Annexure P-1 to P-4		
6.	Application for Stay		
7.	V/A		
	Total		

FILED BY



[Dr. Ravindra S. Chingale]

Advocate for the Petitioner

Registration No. **2659**

Chamber no. 660 Patiala House Court New Delhi

e-mail:- aorchingale@gmail.com

Mob.: 8130507977

Filed on: 05.08.2024

VAKALATNAMA
IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION
TRANSFER PETITION (CIVIL) NO. OF 2024

IN THE MATTER

Mrs. Karuna Bipin Atyale

...PETITIONER/S

V/s

Bipin Prabhakar Atyale

....RESPONDENT/S

I, the Petitioner in the above mentioned matter, do hereby appoint and retain **Dr. Ravindra S. Chingale**, Advocate Supreme Court of India, to act and appear for me /us in the above mentioned matter reference and on my/our behalf to conduct and prosecute(or defend) or withdraw the same and all proceedings that may be taken in respect of any application connected with the same or any decree or order passed therein, including proceedings in taxation and application for review, to file and obtain, return of documents and to deposit and receive money on my/our behalf in the above mentioned matter Reference and in the above matter. I/We agree to ratify all acts done by the aforesaid Advocate, in pursuance of this authority.

Dated this the 30 day of July, 2024

Accepted and Identified and certified

Ravindra

(Dr. Ravindra S. Chingale)
Advocate, Supreme Court of India

Karuna
(Karuna Bipin Atyale)
Petitioner

Ravindra

Identified by:
Dr. Ravindra Chingale
AOR 2659

MEMO OF APPEARANCE

To
The Registrar
Supreme Court of India
New Delhi
Sir,

Please enter my appearance on behalf of the Petitioner(s)/ Appellant(s)/ Respondent(s)/ Intervenor/ Caveator in the above mentioned matter.

Yours faithfully,

Ravindra

(Dr. Ravindra S. Chingale)
Advocate for the Respondent

Code No. 2659, Chamber No.660, Patiala House Court New Delhi
Phone: 8130507977

शपथेवर साक्षीदाराने शपथ पत्रावरील सही व मजकुर मान्य केला

प्र.वादी क्र. १ ते २ तर्फे वकील श्री पलमुळे देसाई

मी सर्व वादीच्या वतीने कोर्टात साक्ष देत आहे. वादी क्र. ११ यांच्या बरोबर लीज डीड किती तारखेला झाले याची तारीख मला आता सांगता येणार नाही. मी मुळ लीज डीड दाखल केलेले नाही हे म्हणणे खरे नाही की, वादी क्र. ११ वरून लीज डीड केलेले नाही तसेच ते दुय्यम निबंधक कार्यालयात नोंदले गेलेले नाही. मी मूळ लीज डीड लाभात दाखल करू शकत नाही. साक्षीदार स्वतःहून पुढे सांगतो की, ते वादी क्र. १ यांच्या ताब्यात आहे. मी सर्व वादीच्या वतीने साक्ष देत आहे. तरीही मूळ लिज डीड कामात दाखल करू शकत नाही. हे म्हणणे खरे नाही की, साने गुरुजी विद्यालय या हक्कात लीज डीड करून दिल्याने नसल्याने मी कामात ते देऊ शकत नाही हे म्हणणे खरे नाही की, आम्ही साने गुरुजी विद्यालय वादी क्र. ११ या हक्कात लीज डीड करून दिलेले नसून "अॅग्रीमेंट टू लिज" करून दिलेले आहे. हे म्हणणे खरे नाही की लीज डीड आजपर्यंत दुय्यम निबंधक कार्यालयात नोंदले गेलेले नाही.

साक्षीदाराला रे मु.क्र. १९६/८ मधील त्यांच्या कोर्टासमोर झालेल्या जबानीच्या सही शिक्क्याची प्रत त्यांना दाखवून प्रश्न विचारण्यात आला. साक्षीदाराला त्याच्या वरील केस मधील जबाबा मधील पारेशन "A" तो भाग वाचून दाखवण्यात आला. मी पोरर्शन "A" मधील मला पूर्वीच्या माझ्या जबाबात झालेला त्या कोर्टात झालेला आहे. आम्हाला दावा जागेची NA सनद मिळालेली नाही. हे म्हणणे खरे आहे की, आम्ही निवासी कार्यासाठी NA परवानगी घेतलेली आहे. हे म्हणणे खरे आहे की, आम्ही व्यापारी तसेच शाळेसाठी म्हणून NA परवानगी घेतली नाही. हे म्हणणे खरे नाही की आजही दावा जागा आमच्या नावावर आहे. हे म्हणणे खरे आहे की, प्र.वादी क्र. १ यांच्या ताब्यात असलेली जागा ही वादी क्र. ११ यांना लिज डीड ने दिलेल्या दक्षिणेस आहे. हे म्हणणे खरे नाही की, प्र.वादी यांच्या ताब्यात असलेल्या जागेशी आमचा काही संबंध नाही. हे म्हणणे खरे नाही की, प्र.वादी १ यांच्या ताब्यात सन १९५० पासून ताब्यात आहे. हे म्हणणे खरे नाही की, सर्वे नं. १७ हिस्सा क्र. ५ पैकी २.२ गुंठे एवढी जागा प्र.वादी यांच्या ताब्यात आहे. सर्वे ५७

हिससा १ २.८ गुंठे ही जागा प्र.वादी यांच्या ताब्यात आहे, यांनी मला माहिती नाही. आम्ही दावा प्र.वादी ने सर्वे क्र. १७ हिस्सा क्र. ५ मध्ये १३ सेक्टर मीटर + २५ स्क्वेअर मीटर काढून मिळावे यासाठी दावा दिलेला आहे. साने गुरुजी बरोबर लीज डीड सन १९७५ मध्ये करण्यात आली.

२) हे म्हणणे खरे नाही की, आमच्यात प्रथम रे.मु.क १९६/९५ पासून सुरुवात झाली. वादी क्र. ११ यांनी जीना सन १९८४-८५ मध्ये बांधला. हे म्हणणे खरे नाही की, १९६/८५ चा दावा दाखल झाल्यानंतर वादी क्र. ११ याने जीना बांधला आहे. वादी क्र. ११ यांनी संपूर्ण इमारत बांधण्यासाठी केडीएसी कडे कडून प्लॅन मंजूर करून घेतलेला आहे. आम्ही सदर प्लॅन कामात दाखल केलेला नाही. हे म्हणणे खरे आहे की, RD ३२/२००१ आम्ही अतिक्रमीत ९३ स्क्वेअर मीटर जागेचा ताबा मिळण्यासाठी प्र.वादी विरुद्ध दाखल केलेले आहे. सदरील दरखास्त ही न्यायालयात प्रलंबित आहे.

३) हे म्हणणे खरे नाही की, १९९१ मध्ये महसूल खात्या मार्फत जागेचा सर्वे झालेला आहे. हे म्हणणे खरे नाही की, वरील

IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION

TRANSFER PETITION (CIVIL) NO. _____ OF 2024

**(PETITION UNDER SECTION 25 OF THE
CODE OF CIVIL PROCEDURE, 1908)**

IN THE MATTER OF :-

Karuna Bipin Atyale

....Petitioner

V/s

Bipin Prabhakar Atyale

....Respondent

WITH

I.A. NO. _____ OF 2024

(Application for stay)

P A P E R B O O K

(FOR INDEX KINDLY SEE INSIDE)

**ADVOCATE FOR THE PETITIONER:
DR. RAVINDRA S. CHINGALE**

“A”

IN THE SUPREME COURT OF INDIA

(CRIMINAL APPELLATE JURISDICTION)

TRANSFER PETITION (Cs) NO. OF 2024

IN THE MATTER OF :

Chanak Manish Agarwal

....Petitioner

V/s

Diwaker Bagri

....Respondent

OFFICE REPORT ON LIMITATION

1. The Petition is/are within limitation
2. The Petition is barred by time and there is delay ofdays in filing the same against order dated and petition for Condonation ofdays delay has been filed.
3. There is delay of days in Refiling the petition and petition for Condonation of days delay in Refiling has been filed.

BRANCH OFFICER

NEW DELHI

Dated: 05.08.2024

SYNOPSIS & LIST OF DATES

The petitioner-wife is seeking transfer of M.P. No. 1230 of 2023 u/s 13 (1) (ia) of Hindu Marriage Act, 1955 filed by the respondent husband for divorce before the Ld. 8th Joint C.J.S.D. and Addl. C.J.M. Pune City, Pune titled as “Bipin Prabhakar Atyale vs. Mrs. Karuna Bipin Atyale” to the Family Court Bengaluru.

Marriage of the Petitioner and Respondent was solemnized on 23/06/2013 at Pune PCMC according to Buddhist Rites and rituals. Out of wedlock on 04.04.2015 respondent gave birth to a male child. Presently petitioner is staying with her son at Bangalore and respondent husband is staying at Pune.

The petitioner is mentally and physically tortured by the respondent immediately after the marriage. Responder was also having extra marital affair and despite petitioner caught him red handedly he did not stop the same. In September, 2020 respondent physically abused the petitioner and abandoned her and their son alone. Since then the respondent was staying at Bengaluru.

- **Pending cases at Bangalore:** Petitioner has lodged a Divorce petition bearing Marriage Petition M.C. no. 5182 of 2023 before Principal Family Judge at Bengaluru. Thus, transfer of the proceedings as prayed for herein below will help both the petitioner and respondent to solve the *lis* between them quickly and without any hardship to both the parties. Otherwise, there is a possibility of conflict of judgment by both the courts at Bengaluru and Pune. To avoid the same it is necessary to transfer the proceedings from Pune to Bengaluru.
- **Petitioner is running her Clinic:** Petitioner is doctor and running her clinic at Bangalore. Being a professional it is not possible for her to spend 3 days to attend the proceedings at Pune.
- **Physical torture by Respondent:** It is admitted position that there were many past incidences where respondent manhandled petitioner and tortured her. Thus, considering the behavior of respondent it is highly unjustified to attend the court proceedings at

1. This transfer petition is being filed under Section 25 of the Code of Civil Procedure, 1908 for seeking transfer of divorce proceedings being M.P. No. 1230 of 2023 u/s 13 (1) (ia) of Hindu Marriage Act, 1955 filed by the respondent husband before the Ld. 8TH Joint C.J.S.D. and Addl. C.J.M. Pune at Pune titled as “Bipin Prabhakar Atayale vs. Mrs. Karuna Bipin Atyale” to the family court Bengaluru.

1(a). It is submitted that in the present petition name of city Bengaluru (new name) is written as (Bangalore) old name wherever necessary. Both the names are of the same city Bengaluru.

2. It is submitted that, marriage of the Petitioner and Respondent was arrange marriage and it came to be solemnized according to the Buddhist rites and rituals and with the consent of both the families on 23.06.2013 at Pune PCMC. After marriage both the Petitioner and Respondent stayed at Pune on rent from July 2013 at Chafekar Chowk, Chinchwad, PCMC. Because of the job of Respondent later they

VAKALATNAMA
IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION
TRANSFER PETITION (CIVIL) NO. OF 2024

IN THE MATTER

Mrs. Karuna Bipin Atyale

...PETITIONER/S

V/s

Bipin Prabhakar Atyale

....RESPONDENT/S

AFFIDAVIT

I, Karuna Bipin Atyale, Age 37 yrs. Occupation: Doctor, R/o 415, First Floor, Mallappa Reddy, Second Cross, 8th Block, Koramangala, Bengaluru Pin. 560095, Karnataka do hereby solemnly affirm and state as follows:

1. I say that I am one of the petitioners in the above-mentioned Transfer Petition. I say that I am conversant with the facts of the present case and as such I am able to depose thereto on behalf of Petitioners.
2. I say that I have read the contents of accompanying Transfer Petition at paragraphs 1 to ²⁰ at page 1 to 17 and the synopsis and list of dates at pages B to J and the I.A.s and the same are true to my own knowledge and belief.
3. I say that the documents as Annexure P/1 to P/4 annexed to the TP are true copies of their respective originals and are part of the record of the courts below.
4. I say that the petitioner has not filed any other petition against the order impugned herein. I have understood the contents of the petition in my mother tongue and for that I am putting my signature hereinbelow.


DEPONENT

VERIFICATION

Verified at Bangalore dated this 30 of July, 2024 that the contents of this affidavit are true and correct to the best of my knowledge and belief and nothing has been concealed there from.


DEPONENT



SWORN TO BEFORE ME


B.M. CHANDRASHEKAR
Advocate & Notary Public
B.D.A. Complex, Koramangala
BANGALORE - 560 034

Sl. No. 911
Page No. 15
BOOK No. 15/21
DATE 30/07/2024

Annexure P-1

IN THE COURT OF HON'BLE PRINCIPAL FAMILY JUDGE AT
BENGALURU

AT NAYADEGULA

M.C. No. 5182 of 2023

Mrs. Karuna Bipin Atyale

Age 35 years Occ: Professional

Religion Buddhist

Address: 415 1st Floor Mallappa Reddy Layout

2nd Cross, Koramangala 8th Block, Bengaluru – 560095

Email: kamblekaruna87@gmail.com

Ph: 9844301891

.....Petitioner

V/s.

Mr. Bipin Prabhakar Atyale

Age 40 years Occ: Software

Religion Buddhist

Address: C/304 Shreeji Park Behind Shree Complex Phase 3

Adharwadi Jail Road, Kalyan West – 421301

Email: Atvalebipin@gmail.com

Ph: 9892445415

.....Respondent

MEMORANDUM OF PETITION U/S 13(1)(I) & (I-A) R/W SECTION 25
OF THE HINDU MARRIAGE ACT, 1955

The Petitioner most respectfully submits as follows:

ADDRESS FOR SERVICE OF SUMMONS:

1. The Address of the petitioner for the purpose of service of notice/summons is as mentioned in the cause title above.

MAY IT PLEASE YOUR LORDSHIP:

The humble petitioner named above, most humbly and respectfully, submits as under:-

1. Petitioner states that, the Respondent & his wife both are Buddhist by religion. Their marriage was a arrange marriage came to be solemnized according to the Buddhist rites and rituals and with consent of both the families at 23 June 2013 at Pune PCMC. Petitioner states that before marriage Petitioner was maiden name was Miss Karuna Vilas kamble Both are domiciled in Maharashtra state.Said Marriage isregistered, so **“Exhibit A” is original copy of Marriage certificate. “Exhibit B” – is Original Marriage Photos.**

2. Petitioner states that, he is having one male issue born out of said marriage named Master Kabir Bipin Atyale now he is 7 years and 8 months

old. **"Exhibit C" - photocopy of Birth Certificate of Master Kabir Bipin Atyale is annexed with this Petition.**

3. Petitioner states that, after 4-5 months of the said marriage, Respondent used to fight over petty issues with Petitioner and with that, Husband and wife conflict since last more than 6 years mental physical torture.

4. Petitioner states that, after marriage both Petitioner and Respondent stayed at Pune on rent from July 2013 at Chafekar Chowk, Chinchwad, PCMC. Because of the job of Petitioner later they shifted to Bangalore - at koramangala 8th Block Bangalore for job purpose on December 2015.

5. Petitioner states that, after few days Respondent started showing her true colors. First major argument happened on March, 2017 approx. whenever Petitioner used to explain Respondent something for example just regarding household chores or it could be any general thinking Respondent response used to be very

aggressive and was never like mature person, in response Petitioner used to get abusive words from Respondent and Respondent used to throw things here and there and do tantrums in anger. This is not expected by Petitioner in this holy relationship, in fact Respondent is doctor by profession and hails from educated family, so throwing many things like utensils here and there in anger, is not expected from such an educated person. In another major incident Petitioner asked for her mobile where she started abusing Petitioner in a very vulgar and abusive language and on next day she started beating Petitioner but every time Petitioner used to tolerate that, thinking that over the time Respondent will become calm and mature and will behave.

6. Petitioner states that, her torture were increasing day by day and tried to report this to Respondent parents over the phone but that was in vain. It was really shocking to Petitioner that, instead of explaining manners and behavior, her family give

THE PETITIONER THEREFORE PRAYS:

- a) That this Hon'ble Court be pleased to pass a Decree of Divorce of Section 13 (1) (ia) of Hindu Marriage Act-1955.
- b) That Hon'ble Court may give custody of Master Kabir Bipin Atyale to Petitioner.
- c) Any further and such other reliefs as the Hon'ble Court deem fit and proper in the nature and circumstances of the Case.

Place: Pune

Date: __/__/2023

Petitioner
(Bipin Prabhakar Atvale)

VERIFICATION

I Mr. Bipin Prabhakar Atyale Age: 40 years, yrsOcc: - salaried, Religion- Buddhist. Add: c/304, Shreeji Park Behind shree Complex phase 3. Adharwadi jail road. Kalyan (west)-421301, E-mail :atyalebipin@gmail.com Ph. :9892445415 Petitioner do hereby solemnly declare that whatever stated in the paragraph Nos. 1 to __ is true to my own knowledge and whatever stated in the all the mentioned Paragraphs based on information, legal

Posting" were received by them and upon receipt of the said notices, the said Defendants had dismantled the said addl. Shed and, therefore, the Plaintiffs did not take any steps and/or action for removing the further encroachment.

12. In the first week of April, 2000, the said Defendants have again extended the earlier encroachment of 13 Sq. Mtrs., by putting up wooden poles and asbestos sheets thereon to the extent of further 25 Sq.Mtrs. approx.

The said Defendants have also put up the temporary pendan of bamboss and cloth/ linen to the extent of further 25 Sq.Mtrs., and have also allowed some strangers to use the same for selling watermelons.

13. The Plaintiffs have to _____ filed a Darkhast for the execution of decree dated 29.04.1989 passed by the Court in R.C.S. No.196/85, however, for the further encroachment to the extent of 25 Sq.Mtrs. as shown on the map of the suit land herewith filed by the Red colour boundary line, the Plaintiffs shall be required

para 14 and submitted that he also admitted that approximately he made construction on the area of 40 sq. meters and therefore, according to him in order to brought on record actual position the appointment of T.I.L.R. is necessary in this case. In support of his above submission he relied on -

1) Ushabai V/s. Wasudeo and others reported in 2004(3) Civil LJ 371, wherein it is held that :-

" In any case, in which there is a dispute about an encroachment or dimension of site, the first essential is to get an agreed map and if the parties cannot agree on one, a Commissioner must be appointed to prepare the same and subsequent reference in the pleading or judgment to place the mark on a map should be referred to this map which must be attached to the decree and signed by the Judge. "

2) S. Singh Reddy (died) and others V/s. K.Ramchandra Reddy reported on 2006(3) Civil LJ 559, wherein it is held that :-

" The principles relating to the appointment of Commissioner though well settled quite often Courts would be coming across such applications. It is not a case where at a very belated stage the application had been moved. The evidence of the plaintiff's side had been over and at the stage of the defendants' evidence, this application was moved. Apart from this aspect of the matter, clear stand had



06.7.11