

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

MISC. CIVIL APPLICATION NO. 28 OF 2014

Sow. Ashwini w/o Umesh Kale,
Age: 26 years, Occ: Nil,
R/o. At present C/o Parshuram Pote,
At Khadakwadi, Post Takali Dhokeshwar,
Tq. Parner, Dist. Ahmednagar. ...Applicant

versus

Umesh s/o Shivaji Kale,
Age: 32 years, Occ: Service at present in
Army, No.15569281, FSPR, 111,
Engineering Regiment SPR,
C/o. N.L.-1-B, 62/07. Sector-10, Phase-11,
Nerul, Mumbai. ...Non-applicant

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Mr. Sandip R. Andhale, Advocate for applicant.
Mr. V.R. Shinde, Advocate h/f Mr. S.J. Rahate, Advocate for
non-applicant.

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CORAM : N.W. SAMBRE, J.

DATE : 28TH JANUARY, 2015

ORAL ORDER :

. Heard respective Counsel for the parties.

2. Considering the nature of the matter, taken up for final disposal.

3. On earlier occasion, this Court has referred the matter for mediation, however, the mediation has failed.

4. According to the present applicant, she is residing within the jurisdiction of the Court at Ahmednagar, whereas Hindu Marriage Petition No. 630 of 2013 is pending in the Court of Civil Judge, Senior Division, Thane and therefore, she seeks transfer of Hindu Marriage Petition No. 630 of 2013 from the file of Court of Civil Judge, Senior Division, Thane to the file of Court of Civil Judge, Senior Division, Ahmednagar.

5. According to her, she attended the proceedings at Thane to show her bonafides. At the relevant time, she got temporary job at Dombivali. However, as she is jobless and she is now residing with her parents in the jurisdiction of Ahmednagar and it is difficult for her to travel alone to Thane to attend the proceeding filed by her husband, which is about 300 Kms. away from Ahmednagar, it will be appropriate to transfer the said proceeding to Ahmednagar.

6. The above referred position is disputed by learned Counsel for respondent, as according to him, the applicant is still serving at Dombivali. He submits that, his client, who is working in

Army is posted at Jammu, hence it will be inconvenient for him to attend the proceeding at Ahmednagar, having regard to the conveyance problem.

7. Having regard to the rival contentions of the parties, it is noticed that, the contention of present applicant that she is jobless and she is now residing with her parents in the jurisdiction of Ahmednagar needs to be accepted. Though learned Counsel for non-applicant, on oral instructions urged that applicant is still continued in job at Dombivali, however, no evidence is brought on record to that effect.

8. No doubt, the applicant is receiving an amount of Rs. 7000/- towards maintenance, however, that does not preclude her from claiming transfer of proceedings.

9. It is well settled proposition of law that, the convenience of the wife should be looked into in the matter of transfer of proceedings initiated by the husband. In that view of the matter, present Misc. Civil Application stands granted in terms of prayer clause (C), which read thus :-

“C) The Matrimonial Proceeding bearing Marriage Petition

No. 630/2013, may kindly be ordered to be transferred from the Civil Judge Senior Division, Thane to Civil Judge Senior Division, Ahmednagar.”

10. Miscellaneous Civil Application stands disposed of in above terms.

[N.W. SAMBRE, J.]