

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

MISC.CIVIL APPLICATION NO.56 OF 2015

Kavita Dinesh More,
Age 26 years, Occu. Nil,
R/o C/o Pitambar Damu Gaikwad,
Wadgaon Gupta road, Samrat
Nagar, M.I.D.C. Ahmednagar

..Applicant

Versus

Dinesh Chandrakant More
Age 30 years, Occu. Business,
R/o Plot No.127/128, R.K. Patel
Nagar, Dhule Road, Amalner
Taluka Amalner, Dist. Jalgaon

..Respondent

Mrs Manjusha S. Jagtap, Advocate for applicant
Mr S.S. Warma, Advocate h/f Mr B.R. Warma, Advocate for respondent

**CORAM : N.W. SAMBRE, J.
DATE : 8th July 2015**

PER COURT

1. The present application is by wife seeking transfer of Hindu Marriage Petition No.204/2014 pending on the file of Civil Judge, Senior Division, Amalner, District Jalgaon to the Court at Ahmednagar.
2. The parties hereto have married about five years back and were blessed with a son who is about four years of age.
3. The transfer of the proceedings is sought on the ground that the applicant herein is facing hardship, as she is required to look after her four year's son and she is not getting any maintenance from the non-applicant/respondent. In addition to above, a ground is raised that the other proceedings are already pending at Ahmednagar in the Court of Judicial Magistrate, First Class vide proceedings - M.A.No.1127/2014 and H.M.P. No.539/2014, initiated under Section 9 of the Hindu Marriage Act for restitution of conjugal right and another proceeding under the Domestic Violence Act.

4. The above referred application is opposed by learned Counsel for the non-applicant/respondent on the ground that the non-applicant will face great hardship, as on the date of hearing of this application, the non-applicant is unemployed. According to him, if the applicant is attending marriages and other social functions at various places, there is no hardship to the applicant to attend the proceedings at Amalner. He would further urge that the brother of the applicant has given threat to the non-applicant and there is every likelihood that the non-applicant may not get appropriate assistance in defending his case in view of approach of brother of the applicant.

5. The Apex Court in the case of **Sunita Singh Vs. Kumar Sanjay and anr.**, reported in **AIR 2002 SC 396** has held that the convenience of wife should be considered in the matter of transfer of matrimonial proceedings.

6. In the present case, it is required to be noted that the applicant is already having custody of her son who is four years of age and she is not getting any maintenance from the non-applicant. Apart from this, three proceedings are already pending at Ahmednagar Court.

7. In view of above and in the interest of justice, the present application deserves to be allowed and it stands allowed in terms of prayer clause (B).

(N.W. SAMBRE, J.)

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