

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

18. MCA/60/2015

ARCHANA SANDEEP GARUDKAR
V/S
SANDEEP PANDURANG GARUDKAR

21. MCA/134/2015

SANDEEP PANDURANG GARUDKAR
V/S
MRS. ARCHANA SANDEEP GARUDKAR

Mr. A.P. Avhad, Advocate for applicant in MCA No. 60/2015.

Mr. A.P. Bhandari, Advocate for applicant in MCA No. 134/2015.

CORAM : T.V. NALAWADE, J.
DATED : 14th September, 2015.

ORDER :

1. Both the applications are filed for transfer of Hindu marriage petitions. The first proceeding is filed by wife for transfer of H.M.P. No. A-724/2013, presently pending in the Family Court, Pune to the Court of Civil Judge, Senior Division, Ahmednagar. The second proceeding is filed by husband for transfer of proceeding bearing HMP No. 345/2013, presently pending in the Court of Civil Judge, Senior Division, Ahmednagar to the Family Court, Pune. which is filed by wife under section 9 of Hindu Marriage Act. Both the sides are heard.

2. The learned counsel for wife submitted that the wife

has no source of income and she is also required to take care of daughter, aged about 8 years. The learned counsel submitted that the wife is required to attend Pune and she is facing financial difficulties for attending the Court from Pune and due to that she may not be able to contest the proceeding filed by the husband for divorce effectively, if the matter is kept in Pune.

3. On the other hand, the learned counsel for husband submitted that proceedings were filed under the Prevention of Domestic Violence Act and under section 125 of Cr.P.C. by the wife and in those proceedings the husband agreed to pay maintenance at the rate of Rs. 8000/- per month. He submitted that the application was moved under section 24 of Hindu Marriage Act and the husband agreed to pay Rs. 500/- per date to the wife for conveyance and in view of the consent given by the wife, the matter cannot be transferred to Ahmednagar.

4. During arguments, the learned counsel for wife submitted that he will not be asking the husband to pay the amount for conveyance which was agreed in divorce proceeding and so, that order be ignored and the wife is giving up that right.

5. The learned counsel for husband submitted that it is

desirable that both the matters are decided by the same Judge. He also tried to make submission that when the matter is filed in the Family Court, the Court of Civil Judge, Senior Division has no jurisdiction. This submission is not acceptable in law. Only for particular purpose Family Court is created, but there is still jurisdiction with the court of Civil Judge, Senior Division to entertain and decide such matters. Another submission was made that marriage was performed in Pune and so, the matter needs to be decided at Pune.

6. In view of the aforesaid circumstances and for convenience of the wife and as in any case, the husband will be required to come to Ahmednagar to contest the matter filed by wife for restitution of conjugal rights, the matters can be brought to one Court.

7. In the result, the application filed by the wife is allowed. The application filed by the husband is rejected. H.M.P. No. A-724/2013 presently pending in the Family Court, Pune is withdrawn from that Court and is transferred to the Court of Civil Judge, Senior Division, Ahmednagar, where the proceeding filed by the wife is pending. The parties are to appear before the new Court on 16.10.2015. The new Court is to see that both the

matters are kept on the same day and both the matters are disposed of expeditiously and in any case, within six months from the date of receipt of this order.

[T.V. NALAWADE, J.]

ssc/