

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

Misc. Civil Application No. 130 of 2014

Poonam w/o Sunil Gawali. **.. Applicant.**

Versus

Sunil s/o Harishchandra Gawali. **.. Respondent.**

Shri. G.K. Naik Thigale, Advocate, for applicant.

Shri. R.V. Naiknaware, Advocate, for respondent.

CORAM: T.V. NALAWADE, J.

DATE : 28 AUGUST 2015

ORDER:

1) The application is filed for transfer of Hindu Marriage Petition No.55 of 2014 which is presently pending in the Court of the Civil Judge, Senior Division, Osmanabad. The wife is staying in Aurangabad and she has prayed for transfer of the matter to Family Court, Aurangabad. Both the sides are heard.

2) It is the case of the wife that she will be required to travel distance about 200 kms for attending the case filed by the husband for divorce. She will be

required to take male attendant to Osmanabad and so she will be required to spend. It is her case that she will not be able to contest the divorce petition effectively if the matter is kept in the Court from Osmanabad. During argument learned counsel for the wife fairly admitted that the wife has now got job as Clerk in Bank of India. She is posted in a branch situated at 60 kms away from Aurangabad and she is commuting between the two places.

3) Learned counsel for the husband submitted that the husband is required to take care of his ailing mother suffering from cancer. He submits that his two brothers are not taking care of the mother and so his presence is necessary for taking care of the matter. He submits that he is ready to spend for the conveyance of the wife and so there is no reason to transfer the matter to Aurangabad. He placed reliance on following two reported cases and one order of the Supreme Court.

(1) **(2003) 11 SCC 732 (Gayatri Mohapatra v. Ashit Kumar Panda);**

- (2) **(2006) 9 SCC 197 (Anindita Das v. Srijit Das);**
- (3) **Pooja Choudhary v. Vinay Jaiswal (Transfer Petition (Civil) No.683 of 2014) decided on 8-1-2015.**

Facts and circumstances of each case are always different.

4) The wife is aged about 25 years and in the past she was housewife and in the HMP proceeding the husband has given her occupation as household. The husband is working as Drug Inspector which is a Class II post. The wife did not file any other proceeding and it was submitted that she wants to see that the dispute is settled and she returns to the matrimonial house. To enable to the wife to contest the divorce proceeding effectively this Court holds that the matter needs to be transferred to Family Court Aurangabad. No inconvenience will be caused to the husband as in any case he will be required to take leave on the dates fixed for hearing. The dates can be fixed by Family Court as per convenience of both the sides.

5) In view of these facts and circumstances the proceeding needs to be transferred.

6) The application is allowed. Hindu Marriage Petition No.55 of 2014 pending in the Court of the Civil Judge, Senior Division, Osmanabad is withdrawn from that Court and is transferred to the Family Court Aurangabad. The parties are to appear before the Family Court on 29th September 2015. The Family Court is to see that the dates are fixed as per convenience of both the sides. The new Court is expected to expedite the matter and in any case within six months from the date of receipt of the record from the previous Court.

Sd/-
(T.V. NALAWADE, J.)

rs1