

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

25 MISC.CIVIL APPLICATION NO. 4 OF 2016

SHUBHANGI W/O NITIN KULKARNI
VERSUS
NITIN SUDHAKARRAO KULKARNI

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

Shri. K.U. Nikam, Advocate, for respondent.

CORAM: T.V. NALAWADE, J.

DATE : 21st MARCH 2016

ORDER:

1) The application is filed by the wife for transfer of Hindu Marriage Petition No.A-2 of 2013 presently pending in Family Court Aurangabad. Both the sides are heard.

2) It is the case of the wife that she is resident of Beed and she is required to take care of daughter aged 6 years. The daughter is attending school. It is her case that she is housewife and she has no source of income. It is her case that she cannot afford to spend for

conveyance, stay etc. It is her case that it is not certain as to how many dates will be fixed for hearing and she will be required to come to Court on the dates and on every date she will be required to take one attendant. It is her case that due to these circumstances it is difficult for her to contest the matter effectively filed for divorce against her in Aurangabad Court.

3) The learned counsel for the husband submitted that the wife had filed application for interim maintenance and the Family Court has granted interim maintenance and the husband has deposited the amount in Family Court Aurangabad as per the order made by the Family Court. Statement was made by the learned counsel for the wife that the wife has not withdrawn the amount.

4) It appears that, in the past, decree of divorce was given in the same proceeding as the wife did not remain present, she did not file her evidence on affidavit in time. The applicant challenged the said decision of the Family Court in the High Court by filing Family Court Appeal No.14 of 2015. The wife had contended that she

could not defend the proceeding diligently as she is residing at Beed and it was difficult for her to attend the proceeding. This High Court in order to give an opportunity to the wife, set aside the decree of divorce and remanded the matter back to the Family Court for expeditious disposal of the matter within four months from the date of the order.

5) It appears that the applicant has filed one proceeding under the Protection of Women from Domestic Violence Act and this proceeding is pending in a Court from Beed.

6) For contesting the matter in Family Court Aurangabad the wife will be required to take one attendant and on every date the wife may not get the attendant to accompany her. In view of these circumstances, this Court holds that the matter needs to be transferred to the Court from Beed. Care can be taken by the new Court to see that both the proceedings are kept on the same date so that no inconvenience is caused to the husband. The new Court to take care of the

apprehension of the husband that the wife will not cooperate for the expeditious disposal of the matter. Some directions can be given to the new Court to see that the matter is disposed of expeditiously.

7) Both the sides to move the Division Bench to get extension of time for disposal of the proceeding.

8) In the result, the application is allowed. The proceeding bearing Petition No. A-2/2013 is withdrawn from the Family Court Aurangabad and it is transferred to the Court of the Civil Judge Senior Division Beed. The new Court is to see that the present matter and the other matter are kept on the same date. The parties are to appear before the new Court on 16th April 2016. In the mean time both the sides are expected to move the Division Bench for getting extension of time.

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

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