

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

**MISC.CIVIL APPLICATION NO. 38 OF 2016**

Mrs. Himani Shirish Jain ..... **APPLICANT**

**V E R S U S**

Shirish s/o Popatlal Jain ..... **RESPONDENT**

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Ms. R.M.Bhokarikar h/f Mr. M.R.Bhokarikar,  
Advocate for Applicant.

Mr. N.R.Shaikh, Advocate for Respondent.

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**CORAM : T.V.NALAWADE, J.**

**DATE : 22<sup>nd</sup> APRIL, 2016**

**ORAL ORDER :-**

. The application is filed by the wife – applicant for transfer of H.M.P. No. 337/2015, presently pending in the Court of the Civil Judge [Sr. Division], Panvel to the Court of the Civil Judge [Sr. Division], Jalgaon, where she is residing. Both sides are heard.

2. The applicant is wife and it is her case that she is house wife, she has no source of income and hence she can not afford to spend on conveyance, attendance, etc. The distance between Panvel and Jalgaon is about 400 Kms. It is her case that she has filed 3 proceedings which are pending in the Court at Jalgaon viz. H.M.P. for

restitution of conjugal rights, proceeding under the provisions of Domestic Violence Act and the proceeding for maintenance. It is her case that in any case the husband WILL be required to attend the Court at Jalgaon and if all the aforesaid matters are kept at Jalgaon Court, that will be convenient for the husband also.

3. Learned counsel for the husband strongly objected to the prayer. He submitted that the father of the husband has given complaint to the police that in one incident, threats were given to him by the applicant, her father and one person who was brought by them and so there is apprehension to the life of husband and his father. He placed reliance on 2 cases viz. *AIR 2007 Supreme Court – 3151 [Y.A.Ajit Vs. Sofana Ajit]* and *2005 (2) LJSOFT (S.C.) 19 [Pratibha Khemka Vs. Sanjay Kumar Khemka]*.

4. It is true that ordinarily the proceeding needs to be filed where cause of action took place. However, to see that the party who is not able to spend, gets opportunity to contest the matter effectively, the matter needs to be transferred. This Court holds that to give opportunity to the wife to contest the matter effectively, the matter needs to be transferred.

5. In the result, Misc. Civil Application is allowed. H.M.P. No. 337/2015 presently pending in the Court of the Civil Judge [Sr. Division], Panvel is withdrawn from that Court and is transferred to the

Court of the Civil Judge [Sr. Division], Jalgaon. The new Court to take care and see that all the proceedings pending between the parties are kept on one and the same date so that no inconvenience is to be caused to the parties. The proceeding filed for restitution of conjugal rights and divorce are to be expedited and disposed of within six months from the date of receipt of the record to the new Court from the previous Court. Both the parties to appear in the new Court on 01/07/2016.

**[T.V.NALAWADE, J.]**