

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

MISC.CIVIL APPLICATION NO. 44 OF 2016

Sow. Vaishali w/o Rushikesh
Deshmane

..... **APPLICANT**

V E R S U S

Dr. Rushikesh Ashok Deshmane

..... **RESPONDENT**

.....

Mr. M.D.Godhamgaonkar, Advocate for Applicant.

Mr. S.R.Deshpande, Advocate for Respondent.

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CORAM : T.V.NALAWADE, J.

DATE : 18th MARCH, 2016

ORAL ORDER :-

. The application is filed by the wife – applicant for transfer of H.M.P. No. A-506/2015, presently pending in the Family Court at Aurangabad to the Court at Nanded. Both sides are heard.

2. It is the case of wife that she is house wife and has no source of income and on every occasion she is required to come to Aurangabad with attendant to attend the Court and hence she is required to spend on both i.e. herself and the attendant for conveyance, etc. It is her case that if the matter is kept at Aurangabad, she will not be in a position to contest the matter effectively and so the matter needs to be transferred to the Court at

Nanded. It is her case that she has filed maintenance proceeding in the Court at Nanded. It is her case that her husband is required to attend this proceeding at Nanded and so no inconvenience will be caused to him if the present proceeding is transferred to the Court at Nanded. It is also her case that she is required to take care of her 4 years baby.

3. The application is opposed by the husband by filing reply and documents. In the past the husband had filed proceeding. The wife had appeared in that proceeding. However, on 06/08/2014 due to mediation, parties had settled the dispute. Wife had resumed cohabitation at Aurangabad. It is the case of husband that she behaved with cruelty and so he was required to give report against the wife in the police station. Copy of the said report is produced on record. It is submitted for the husband that as he is practicing at Daultabad and residing at Aurangabad and so it will create problem when the matter will be transferred to the Court at Nanded. It is also submitted that the wife is gainfully employed and she is employee of one hospital and so it can not be believed that she can not spent for litigation. It is also the case of the husband that when he had gone to attend the matter of maintenance, he was threatened by 2 persons, who were the workers of one political party.

4. It is a fact that Aurangabad is situated at a distance of more than 225 Kms. from Nanded. It is also not disputed that a daughter aged 4 years is with the

wife. For attending the proceeding, she is required to take her kid with her. Further, in view of the age of wife, one male attendant is required to come with her at Aurangabad. Even if some order is made against the husband and he is directed to bear the expenses of the wife, that does not solve the problem. It is not certain in how much time the matter will remain pending in the Court at Aurangabad and that will cause unnecessary harassment to the kid. If the matter is kept at Aurangabad, that will create problem in effective contest of it. On the other hand, maintenance proceeding is filed by the wife in the Court at Nanded and the husband is required to attend the said proceeding and so no inconvenience will be caused to the husband if the proceeding pending in the Court at Aurangabad is transferred to the Court at Nanded. Care can be taken to see that both the matters are kept on one and the same date and no inconvenience is caused to both the sides. Learned counsel for the applicant placed reliance on the decision in the case reported as 2012 d(2) Mh.L.J. - 143 [Sunita w/o Baliram Pande Vs. Baliram s/o Haribhau Pande].

5. In view of the facts and circumstances of the case, application needs to be allowed.

6. In the result, the application is allowed. The proceeding pending in the Family Court at Aurangabad is withdrawn from that Court and is transferred to the Court at Nanded. The proceeding filed for divorce and

maintenance are to be kept on one and the same date so that no inconvenience is caused to the parties. The new Court is to see that the proceeding filed for divorce is disposed of within six months from the date of receipt of the record from the Court at Aurangabad.

[T.V.NALAWADE, J.]

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