

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

922 MISC.CIVIL APPLICATION NO. 74 OF 2015

SHWETA AMIT MHASKE
VERSUS
AMIT VYANKATESHRAO MHASKE

...
Advocate for Applicant : Nirmal Ramchandra J.
Advocate for Respondent : Shelke Manoj U.
...

CORAM : T.V. NALAWADE, J.
DATED : 27th July, 2016.

ORDER :

1. The application is filed by wife for transfer of divorce proceeding bearing H.M.P. No. 81/2014 from the Court of Civil Judge, Senior Division, Beed to Family Court, Aurangabad. Heard both the sides.

2. It is the case of wife that she is resident of Aurangabad and she is required to take care of a kid, aged about two and half years. It is her case that she has no source of income and she is not able to spend on litigation, conveyance and attendant. It is the case of wife that she has filed proceeding under Domestic Violence Act against the husband and it is pending in the Court from Aurangabad and in any case, the husband will be required to come to Aurangabad to contest that matter. It is her case that husband is serving at Kolhapur and so,

he will be required to come to Aurangabad and he can directly come to Aurangabad and no inconvenience will be to him, if the two matters are brought at one and the same station. It appears that the respondent is serving in Police Department as Police Sub Inspector.

2. The learned counsel for respondent submitted that respondent is ready to spend on conveyance and attendant of the wife. Though submissions are made, things are never in control and it is not certain as to how much time will be required for disposal of the divorce proceeding. Due to this circumstance, the wife will not be in a position to contest the matter effectively which is filed for divorce. The learned counsel for husband submitted that affidavits of examination in chief of the husband and witness are filed. That will not change the fate of the matter. The learned counsel for husband placed reliance on the cases reported as **(1996) 11 Supreme Court Cases 96 [Kalpana Deviprakash Thakar Vs. Dr. Deviprakash Thakar], (1997) 2 Supreme Court Cases 452 [Shiv Kumari Devendra Ojha Vs. Ramajor Shitla Prasad Ojha and Ors.], 2009 (3) Mh.L.J. 77 [Jitendra Singh Vs. Bhanu Kumari and Ors.], and 2011 (2) Mh.L.J. 914 [Rekha wd/o. Late Avinash Raut Vs. Shivaji Bhimrao Sapate]**. The facts and circumstances of

each and every case are always different. In view of the facts of the present case, matter needs to be transferred.

3. In view of the aforesaid discussion, this Court holds that application needs to be allowed. So, the application is allowed. H.M.P. No. 81/2014, presently pending in the Court of Civil Judge, Senior Division, Beed is withdrawn from that Court and is transferred to the Family Court, Aurangabad. The new Court is to take care and see that date of the present matter matches with the date of proceeding filed by wife in other Court from Aurangabad. The new Court is to expeditiously dispose of the case and in any case, within six months from the date of receipt of the record from the previous Court. Parties are to appear before the new Court on 29.8.2016.

[T.V. NALAWADE, J.]

ssc/