

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

914 MISC.CIVIL APPLICATION NO. 13 OF 2016

HALIMA SHAMIKHAN PATHAN
VERSUS
SHAMIKHAN NURKHAN PATHAN

...
Advocate for Applicant : Dambe S. S.
Advocate for Respondent : Kanade A. L.
...

CORAM : T.V. NALAWADE, J.
DATED : 7th April, 2016.

ORDER :

1. The application is filed by wife for transfer of Regular Civil Suit No. 247/2015, presently pending in the Court of Civil Judge, Junior Division, Mukhed to the Court at Aurangabad. Both the sides are heard.

2. It is the case of wife that she has no source of income and she cannot afford to spend on her conveyance and of attendant as Mukhed is situated at the distance of 300 k.m. from Aurangabad. It is her case that she is required to take care of son aged about 12 years and she may not be able to contest the matter effectively filed against her for declaration that marriage is already dissolved, if the matter is kept in Mukhed Court. It is contended that she has filed one proceeding under Domestic Violence Act at Aurangabad against the husband and

in any case, the husband is required to come to Aurangabad to contest the matter. It is contended that both the matters can be kept at Aurangabad and so, no inconvenience will be caused to the husband.

3. The learned counsel for husband submitted that as per the jurisdiction over the subject matter, the suit is filed by husband in the Court from Mukhed and there is no necessity of transfer of that matter to Aurangabad. He submitted that the husband wants to examine atleast five witnesses and he will be required to spend more if the matter is transfered to Aurangabad.

4. In view of the contentions of the wife that she is not able to spend on litigation and on conveyance of her and one attendant, this Court holds that to enable the wife to contest the matter effectively filed for declaration that the marriage is already dissolved, the matter filed by the husband at Mukhed needs to be transfered to Court from Aurangabad. There will be no inconvenience caused to the husband as one matter is already pending in the Court at Aurangabad and care can be take to see that both the matters are kept in Aurangabad Court on the same date. So, the following order is made.

ORDER

The application is allowed. The aforesaid suit is withdrawn from the Court of Civil Judge, Junior Division, Mukhed and is transferred to the Court from Aurangabad. The Principal District Judge is to see that the present matter is assigned to the same Civil Judge, Junior Division, who is dealing with the matter filed by the wife under Domestic Violence Act as Judicial Magistrate First Class. The new Court is to take care and see that both the matters are kept on the same date, so that no inconvenience is cause to both the sides. The new Court is to dispose of the matter filed by the husband expeditiously and in any case, within six months from the date of receipt of record from the previous Court. Parties are to appear before the new Court on 7.6.2016.

[T.V. NALAWADE, J.]

ssc/