

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

13 MISC.CIVIL APPLICATION NO. 1 OF 2016

SAU. RAMA W/O UMESH GAWALI

VERSUS

UMESH BABASAHEB GAWALI

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Mr. A.B.Jagtap h/f Mr. V.D.Sapkal,
Advocate for Applicant.

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

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CORAM : T.V.NALAWADE, J.

DATE : 18th JULY, 2016

ORAL ORDER :-

. The application is filed by the wife – applicant for transfer of H.M.P. No. 5/2014, presently pending in the Court of the Civil Judge [Sr. Division], Bhoom, district Osmanabad to the Family Court, Aurangabad. Heard both sides.

2. It appears that both sides are practicing Advocates. It is the case of the wife that initially divorce proceeding was filed by the husband in the Family Court at Aurangabad and in that proceeding he could not succeed. It is her case that proceeding was filed for

declaring the marriage as nullity, but in that matter also the husband did not take interest and so the matter came to be dismissed. It is contended that after disposal of the proceeding u/s 11 of the Hindu Marriage Act in the Family Court at Aurangabad, the proceeding under same section for same relief came to be filed in the Court at Bhoom, district Osmanabad. It is contended that only to harass the applicant, the husband has filed the proceeding at Bhoom. It is her case that she has filed one proceeding under the provisions of Domestic Violence Act and also one Civil Suit and in any case the husband will be required to attend those proceedings. It is contended that in the past, the husband had shown his place of residence as Aurangabad and so the matter filed by the husband can be transferred to the Family Court at Aurangabad.

3. The husband has contested the matter by filing affidavit. He has contended that there are as many as 7 proceedings pending in the Court at Osmanabad and at Bhoom and some of them are filed by the wife. It is contended that as the wife is practicing Advocate and she is attending all these matters by coming to Osmanabad, no inconvenience will be caused to her if the present proceeding is kept in the Court at Bhoom. It was submitted for the husband that Examination-in-Chief is already recorded and the matter can be expedited.

4. The previous proceeding u/s 11 of the Hindu Marriage Act was filed by the husband in Aurangabad.

Though he has contended that the Court had no jurisdiction, nothing is brought on record to that effect. When this Court is transferring the matter from the Court at Bhoom to the Family Court, Aurangabad, the question of local jurisdiction will not be there. As the husband is Advocate and he is required to come to Aurangabad to contest the aforesaid 2 matters, this Court holds that no inconvenience will be caused to him if the matter filed by him in the Court at Bhoom is transferred to the Family Court, Aurangabad.

5. In the result, the application is allowed. H.M.P. No. 5/2014, presently pending in the Court of the Civil Judge [Sr. Division], Bhoom, district Osmanabad is withdrawn from that Court and is transferred to the Family Court, Aurangabad. The new Court to take care and see that the date of the present matter matches with the dates of 2 proceedings filed by the wife. The new Court is to expeditiously dispose of the matter and preferably within 4 months from the receipt of record from the previous Court. Both the parties to appear before the new Court on 02/09/2016.

[T.V.NALAWADE, J.]