

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

MISCELLANEOUS CIVIL APPLICATION NO. 118 OF 2017

SANDHYA CHANDRAKANT GUND
VERSUS
CHANDRAKANT SUBHASHRAO GUND

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Advocate for the Applicant : Shri Gitte Mukund D..

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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 11th December, 2017

Per Court:

1 By this application, the Applicant/ wife prays for transferring Hindu Marriage Petition No.207/2015, presently pending before the learned Civil Judge, Senior Division, Osmanabad to the learned Family Court at Latur.

2 Though the Respondent/ husband has been served with the notice for final disposal issued by this Court, no appearance is entered either through an Advocate or in person. This matter was on the due admission board on 20.11.2017 and was, thereafter, adjourned to this date.

3 The learned counsel for the Applicant submits that the marriage between the Applicant and the Respondent is more than 17 years old. Since the Applicant has not given birth to any child, the husband

began assaulting her and has driven her out of his home under the threat of performing second marriage. Subsequently, he has remarried and has three children born out of the second marriage, which according to the Applicant is illegal.

4 The Applicant has no source of income and is living with her parents in her parental home at Latur. The Respondent/ husband is an agriculturist. Special Civil Suit No.82/2016 filed by the Applicant is recently transferred to the Family Court at Latur and is renumbered as Petition No.C-26/2017.

5 It is contended that as the Applicant is about 42 years of age and she has to travel from Latur to Osmanabad to attend the proceedings in HMP No.207/2015 instituted by the Respondent/ Husband, she cannot travel alone and an adult member of her family has to accompany her for security. Since one proceeding is already pending at Latur and the Respondent is attending the said proceeding, it would be in the interest of justice to transfer the Hindu Marriage Petition to the learned Family Court at Latur.

6 The Honourable Supreme Court in the matters of Sumita Singh Vs. Kumar Sanjay and another; AIR 2002 SC 396, and Soma Chaudhury vs. Gourab Chaudhury, 2004 (13) SCC 462, has laid down the law that unless special reasons are cited by the husband, the interest of the wife has to be considered. If it is physically inconvenient to the wife

and if attending the court proceedings at a distant place, causes manifest inconvenience and grave hardships to the wife, the matter needs to be transferred so as to reduce her rigours of litigation.

7 In the instant case, as the husband already attends the proceedings at Latur, no loss or harm would be caused to the husband if the Hindu Marriage Petition No.207/2015 is transferred to the learned Family Court at Latur by giving liberty to the litigating sides to have both the proceedings on the same day before the same Court.

8 Considering the above, this Miscellaneous Civil Application is allowed in terms of prayer clause (B) and Hindu Marriage Petition No.207/2015 shall stand transferred from the Court of the learned Civil Judge, Senior Division, Osmanabad to the learned Family Court at Latur.

9 It would be open for the Respondent/ Husband to pray for a common date in both the proceedings before the learned Family Court at Latur.