

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

MISCELLANEOUS CIVIL APPLICATION NO. 247 OF 2017

PRIYANKA NILESHKUMAR NAIK
VERSUS
NILESHKUMAR KISAN NAIK

...

Advocate for the Applicant : Shri Gaikwad Bhagwan K..
Advocate for the Respondent : Shri A.G.Jadhav h/f Shri Kanade Angad L.

...

CORAM: RAVINDRA V. GHUGE, J.

DATE :- 08th February, 2018

Per Court:

1 While issuing the notice on 21.12.2017, this Court had observed as under :-

- "1. *The Applicant-wife has invoked Section 24 of the Civil Procedure Code and prays for transferring HMP No.A-440/2017 from the Family Court at Aurangabad to the Court of the learned Civil Judge Junior Division, Akkalkuwa, District Nandurbar.*
2. *Issue notice to the Respondent-husband at the address of Wanyavihir (Janata Nagar), Beside Animal's Hospital, Tq.Akkalkuwa, District Nandurbar, considering the request of the applicant. Notice is made returnable on 02.02.2018.*
3. *In the event HMP No.A-440/2017 is on the board of the learned Family Court at Aurangabad prior to the returnable date in this matter, the same shall be adjourned beyond the returnable date.*
4. *The copy of the application paper book shall be supplied on or before 05.01.2018 for issuance of notice, failing which, this application shall stand rejected without reference to the Court w.e.f.*

06.01.2018."

2 The learned Advocate for the Applicant submits that presently, the Applicant/ wife is residing with her parent at Akkalkuwa, District Nandurbar. Criminal Miscellaneous Application No.129/2017 initiated by the wife is before the concerned Court at Akkalkuwa and the Respondent/ husband attends the hearing in that matter. The distance between Akkalkuwa and Aurangabad is about 300 kilometers and requires an overnight journey. The Applicant has to be accompanied by an adult male member of the family from Akkalkuwa to Aurangabad for attending the proceedings initiated by the Respondent/ husband. As such, it is necessary that Hindu Marriage Petition No.A-440/2017 be transferred from Aurangabad to the court of the learned Civil Judge, Junior Division, Akkalkuwa.

3 The learned Advocate for the Respondent/ husband submits that he is presently pursuing his Ph.D. at Aurangabad. For the said purpose, he resides at Aurangabad. He is willing to pay the travelling expenses to the Applicant/ wife to travel to Aurangabad for attending the proceedings in the Family Court.

4 Notwithstanding the above, it is settled law that in such matters, the convenience of the wife has to be considered. If the husband posts such reasons by which, it can be gathered that it would be very

difficult for the husband to leave the place of his residence and attend the court proceedings, then, a different view could be taken. However, in the instant case, the Respondent/ husband already attends the proceedings before the competent court in Criminal Miscellaneous Application No.129/2017 at Akkalkuwa.

5 Considering the above, this Miscellaneous Civil Application is allowed in terms of prayer clause (B), which reads as under:-

"B) *The proceedings of Hindu Marriage Petition No.A-440/2017 may please be transferred from the Family Court, Aurangabad to the Court of Civil Judge, Junior Division at Akkalkuwa, District Nandurbar.*"

6 Needless to state, the Respondent/ husband would be at liberty to request the concerned Court in the Hindu Marriage Petition case to post the hearing on the same date on which Criminal Miscellaneous Application No.129/2017 has been posted so as to enable him to attend both the proceedings on a single day. If such an application is made, the Applicant/ wife would not oppose and would consent for the said arrangement.