

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

MISC. CIVIL APPLICATION NO. 130 OF 2018

Swapnil Vyankat Asalekar & Ors.	...	Applicants
V/s.		
Ashwini Swapnil Asalekar	...	Respondent

**WITH
MISC. CIVIL APPLICATION (ST.) NO. 9464 OF 2018**

Ashwini Swapnil Asalekar	...	Applicant
V/s.		
Swapnil Vyankat Asalekar & Ors.	...	Respondents

- Smt.Jai A. Vaidya for the Applicants in MCA/130/2018 and for the Respondents in MCAST/9464/2018.
- Mr.Ramdas Sabban for the Applicant in MCAST/9464/2018 and for the Respondent in MCA/130/2018.

CORAM : DR.SHALINI PHANSALKAR-JOSHI, J.

DATE : 26th JUNE, 2018.

P.C. :

- 1] Heard learned counsel for both the parties.
- 2] Misc. Civil Application No.130 of 2018 is filed by the Applicant-husband and his parents seeking the transfer of Criminal M.A. No.1036 of 2017 pending in the 4th Jt. Judicial Magistrate, First Class at Pimpri Morwadi to the Family Court at Bandra, where the divorce Petition No.A-680- of 2017 filed by him is pending.

3] Whereas, Misc. Civil Application (St.) No.9464 of 2018 is filed by the Applicant-wife seeking transfer of divorce Petition No.A-680 of 2017 pending in the Family Court at Bandra to the Family Court at Pune.

4] According to learned counsel for the Applicant-wife on account of the ill treatment and harassment, she has to leave the house of her husband at Mumbai. However, now due to this divorce Petition filed by her husband in the Family Court at Bandra, she has to frequently visit Mumbai to attend every date. She has therefore apprehension of the physical violence. Moreover, she is also suffering from hyper tension. Hence, it is necessary that the divorce Petition filed in the Family Court at Bandra be transferred to the Family Court at Pune.

5] Normally, this Court would have done so, but the facts of this case are different, in the sense that, though the parties are not having any issue, the husband's parents are also made parties in Criminal M.A. No.1036 of 2017, which is filed by the wife against him for the reliefs under Domestic Violence Act. The parents' age as shown in the application is around 70 years. In such situation, they must be finding it more difficult to attend each and every date by going from

Mumbai to Pimpri-Morwadi for those proceedings.

6] Secondly, as regards the Applicant-wife, it is submitted that she is an educated lady, having her own business activities and she has also contested the Election of Pimpri-Chinchwad Municipal Corporation. Therefore, she may not have much difficulty to come to Mumbai for attending the divorce proceedings in Family Court at Bandra. Moreover, it is submitted that as regards the divorce proceedings filed by the husband, already the counseling process is over and now the matter is kept for hearing, without written statement, which shows that the Applicant-wife is not interested in attending the same. Hence, there is no point in transferring the said proceedings, which will be causing several difficulties to the husband and his parents.

7] The submission advanced by learned counsel for the Applicant-wife is that in this situation both the proceedings may be transferred to some neutral place, like, Alibag. However, in my considered opinion such proposal cannot be accepted, as it will cause inconvenience not only to the husband and his parents but also to the wife. There is also no necessity to transfer the proceedings to neutral place, as except for making a vague averment that she has apprehension of physical violence, there is not such material on

record to that effect.

8] Hence, in view of the facts stated above, I do not find that any case is made out to allow her application or even to transfer any proceedings to third place.

9] Conversely, the case is made out to allow the application filed by the husband and to transfer Criminal M.A. No.1036 of 2017 pending in the Court of Judicial Magistrate, First Class at Pimpri-Morwadi to the Family Court at Bandra.

10] Accordingly, Misc. Civil Application No. 130 of 2018 filed by the Applicant-husband is allowed.

11] Criminal M.A. No.1036 of 2017 pending in the Court of Judicial Magistrate, First Class at Pimpri-Morwadi is hereby transferred to the Family Court at Bandra, to be heard along with divorce Petition No.A-680 of 2017.

12] Misc. Civil Application (St.) No.9464 of 2018 filed by the Applicant-wife stands dismissed.

13] Registry to inform the concerned Courts accordingly.