

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

MISC.CIVIL APPLICATION NO.108 OF 2018

**MANJU VIJAYKUMAR HIBARE
VERSUS
VIJAYKUMAR DATTATRAY HIBARE**

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Advocate for the Applicant : Shri M. S. Bhosale
Advocate for the Respondent – sole : Ms. S. M. Zaware

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CORAM : RAVINDRA V. GHUGE, J.

DATED : 13th FEBRUARY, 2019.

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PER COURT :

1. The attempt to settle the dispute and save the marriage by referring this proceeding to the mediator, has failed.
2. I have heard the learned Advocates for the respective sides, who are equipped with a long list of allegations against each other.
3. The applicant is a mother of a three years old daughter, who is born out of her marriage with the respondent and is presently residing in her parental home at Beed.

4. I am not required to go into the allegations levelled by the rival sides against each other. Suffice it to say, that two proceedings, one under the Protection of Women from Domestic Violence Act, 2005 and one under Section 498-A of the Indian Penal Code, are pending before the two Courts at Beed. The respondent attends the said proceedings, though it is his contention that one proceeding is practically at a concluding stage.

5. The learned Advocate for the applicant places reliance upon the following judgments :-

- (i) *Gagandeep Kaur Vs. J. S. Bindra*, 2001 AIR SCW 5125,
- (ii) *Soma Choudhury Vs. Gourab Choudhury* [(2004) 13 SCC 462],
- (iii) *Virendra Kumar Rai and others vs. Union of India and others*, [(2004) 13 SCC 463],
- (iv) *Vaishali Shridhar Jagtap Vs. Shridhar Vishwanath Jagtap* [2016 AIR (SC) 3584],
- (v) *Sayali Swapnil Kuber Vs. Swapnil Harischandra Kuber* [2014 (1) Mh.L.J. 584],

6. It requires no debate that in matters of such nature, normally the convenience of the wife has to be seen, unless the

husband can cite such reasons which would indicate that it would be impossible for him to attend the proceedings at the place of the choice of the wife.

7. When two proceedings are already before the concerned Courts at Beed and as the respondent husband attends the said proceedings, I do not find that any prejudice would be caused to him if Petition No. A-315/2017 pending before the Family Court at Solapur is transferred to the Court of the learned Civil Judge Senior Division at Beed. The husband can attend the three proceedings on common dates by making such request. Per contra, if the proceedings are not transferred, the applicant wife will have to attend one proceeding at Solapur and the respondent husband would be attending two proceedings at Beed. So also, it cannot be the case of the respondent husband that he can not attend these proceedings on common dates.

8. In view of the above, this application is allowed. Petition No. A-315/2017 stands transferred from the Family Court at Solapur to the Court of the learned Civil Judge Senior Division, Beed.

9. The litigating sides shall appear before the concerned Court at Beed on 16/03/2019. Liberty is granted to the husband to request that all these three matters should be posted on common dates so that he can attend these matters in common visits at Beed.

(RAVINDRA V. GHUGE, J.)

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