

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

MISC.CIVIL APPLICATION NO.26 OF 2018

MADHAVI VINAYAK KOMALWAR
VERSUS
VINAYAK RADHAKISHAN KOMALWAR

Advocate for the Applicant : Shri M. B. Ubale
Advocate for the Respondent - sole : Shri R. N. Chavan
h/f. Shri V. A. Bagadiya

CORAM : RAVINDRA V. GHUGE, J.
DATED : 26th FEBRUARY, 2020

PER COURT :

1. The Applicant - wife prays for transferring Marriage Petition No. 569/2017, filed by the husband, from the Court of the learned Joint Civil Judge Senior Division, Bhivandi - Thane (Link Court) to the learned Family Court at Ahmednagar. After the petition was filed by the husband, the wife has also filed HMP No. 639/2017 at Ahmednagar. The distance is said to be about 271 kms. and requires two overnight journeys to travel to Thane for the proceedings. The mother of the Applicant wife has passed away last year and her father is an aged person.

2. Reliance is placed upon the following judgments :-

- (i) Vennangot Anuradha Samir Vs. Vennangot Mohandas Samir - 2016(1)Bom.C.R.250,
- (ii) Soma Choudhuri Vs. Gourab Choudhuri (2004)13 SCC 462,
- (iii) Anjali Ashok Sadhwani Vs. Ashok Kishinchand Sadhwani - AIR 2009 SC 1374,
- (iv) Vaishali Shridhar Jagtap Vs. Shridhar Vishwanath Jagtap - 2016 AIR (SC) 3584,
- (v) Sumita Singh vs. Kumar Sanjay - (2001) 10 SCC 41 : AIR 2002 SC 396,
- (vi) Mahadevi Mehtre vs. Gopal - 2015 (5) AIR Bom. 250,
- (vii) Mona Aresh Goel vs. Aresh Satya Goel - 2000 (9) SCC 255 : AIR 2000 SCW 2652,
- (viii) Ravinder Kaur vs. Hitinder Singh - AIR 2000 SC 3403,
- (ix) Rena Gautam vs. Vinod Gautam - AIR 2000 SC 3405,
- (x) Reena Mehra vs. Rohit Rai Mehra - AIR 2003 SC 1002,
- (xi) Rakhi Banerjee vs. Subhankar Mukherje - AIR 2009 SC 928,
- (xii) T.Gayatri Devi vs. Tallepaneni Sreekanth -

2013 (6) Bom. C.R. 119 (SC),

- (xiii) Anita Balkrishna Barge vs. Balkrishna Sopan Barge - 2011 (3) Bom. C.R. 866 (Aurangabad Bench) and
- (xiv) Smita Dhananjay Patil vs. Dhananjay Krishnakumar Patil - 2013 (5) Bom.C.R. 694 (Aurangabad Bench).

3. The learned Advocate for the Respondent / husband submits that the wife has filed the proceedings at Ahmednagar, only to harass the husband. He is working as an employee in a Cloth Stores and it is not possible for him to frequently avail of leave to attend the proceedings at Ahmednagar.

4. I find that, in such matters, the comparative hardships amongst the litigating sides have to be assessed. Normally, the convenience of the wife is to be considered, unless the husband posts compelling circumstances due to which a different view can be taken.

5. In the present case, the husband is already attending the proceedings filed by the wife at

Ahmednagar. He travels from Bhivandi to Ahmednagar. No purpose would be served in compelling the wife to travel to Bhivandi in the proceedings filed by the husband. Instead, both these proceedings can be posted on common dates before the same Court at Ahmednagar for the convenience of the husband.

6. In view of the above, this application is allowed. Marriage Petition No. 569/2017 shall stand transferred from Bhivandi - Thane (Link Court) to the learned Family Court, Ahmednagar and shall be posted on common dates with HMP No. 639/2017.

7. Both the litigating sides shall appear before the learned Family Court, Ahmednagar on 20/03/2020. Formal notices need not be issued. The concerned Court at Ahmednagar would post both the proceedings on same dates for the convenience of the Respondent / husband.

(RAVINDRA V. GHUGE, J.)

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