

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

MISC. CIVIL APPLICATION NO.114 OF 2019

Sau. Trupti @ Madhura Makarand
Borude

Applicant

Versus

Makarand Gangadhar Borude

Respondent

Mrs.Manjushri V. Narwade, advocate for the applicant.
Mr.P.N.Nagargoje, advocate holding for Mr.D.B.Thoke, advocate for
the Respondent.

CORAM : ROHIT B.DEO, J.

DATE : 02/01/2020

PER COURT :

1 This application is preferred by the wife seeking transfer of HMP No.1586 of 2017, pending before the Civil Judge, Senior Division, Pune, to the Family Court at Ahmednagar.

2 The wife contends that her petition instituted under the provisions of the Protection of Women from Domestic Violence Act, 2005, is pending before the Ahmednagar Court. The wife further contends that although there is an order of maintenance passed by the Civil Judge, Junior Division, Ahmednagar, the Respondent-husband is not paying maintenance regularly. The wife also

contends that it would be extremely inconvenient for her to attend the proceedings at Pune.

3 The counter affidavit filed on behalf of Respondent-husband states that the evidence at Pune is complete and the petition is fixed for judgment. However, learned Counsel, who appears on behalf of husband, on instructions, states that the said statement is factually incorrect. The learned Counsel states that evidence of the husband is over and the petition for divorce is now fixed for recording evidence of the wife. The learned Counsel, who appears on behalf of husband, further states, on instructions, that the husband is paying maintenance regularly.

4 Considering the distance between Ahmednagar and Pune, the fact that the proceedings at Pune have progressed significantly and in view of the statement made by the husband that there are no arrears of maintenance, I am not inclined to consider the prayer for transfer of the petition from Pune to Ahmednagar. However, it is made abundantly clear that if the statement made on behalf of the husband, that the maintenance is being paid regularly, turns out to be factually incorrect, the husband shall be rendering himself vulnerable to the charge under

the Contempt of Courts Act. The husband would be well advised to ensure that not only entire arrears are cleared, if there are arrears, the monthly maintenance awarded by the Court is paid regularly even hereinafter without the wife being required to prosecute the execution proceedings. The Civil Judge, who is entrusted with the petition filed by the husband, shall ensure that the husband is not in arrears, before proceeding with recording of the evidence.

5 The Civil Judge is requested to finally dispose of the Hindu Marriage Petition within three months.

6 Misc. Civil Application is disposed of.

(ROHIT B.DEO)
JUDGE

adb