

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

902 MISC.CIVIL APPLICATION NO.135 OF 2018

YASHODHARA RAHUL PAGARE ALIAS YESHODHARA RAMDAS
ARAK
VERSUS
RAHUL RAMESH PAGARE

...
Advocate for Applicant : Mr. K.M. Nagarkar h/f Ms. Kulkarni
Smita S.

...

**CORAM : ROHIT B. DEO, J.
DATED : 07th FEBRUARY, 2020.**

PER COURT:-

. None appears on behalf of the respondent.

2. This application is preferred seeking transfer of H.M.P. No.177 of 2018 filed by the respondent before the Civil Judge Senior Division, Kalyan, to the Family Court at Aurangabad.

3. The learned counsel for the applicant would submit that the applicant is residing at Aurangabad with her parents and has two young children aged 8 and 6 years from the wedlock. The applicant filed proceedings under the Protection of Women from Domestic Violence Act, bearing no.754 of 2017 against the respondent and his family members, which is pending in the Court of J.M.F.C., Aurangabad. The applicant contends that the respondent has appeared in the said proceeding. The applicant further

submits that she is not receiving any maintenance from the respondent and is residing with her parents at their mercy. In essence, the submission is that it would be extremely inconvenient for the applicant to travel to Kalyan, particularly considering that her children are young.

4. The non-applicant has filed an affidavit in reply contending that no prejudice shall be caused to the applicant if she attends the proceedings at Kalyan. The non-applicant states on affidavit that if the applicant-wife attends the proceedings at Kalyan, the non-applicant would be able to meet the children. Every allegation and averment in the application seeking transfer is denied.

5. I am satisfied that the applicant has made out a case for transfer. She has two young children and it is not disputed that she is not receiving any maintenance. The distance between Aurangabad to Kalyan is approximately 350 kms. The non-applicant would in any event be attending the proceedings under the Protection of Women from Domestic Violence Act, bearing no.754 of 2017 pending at Aurangabad. On the anvil of comparative hardship, the balance tilts in favour of the applicant.

6. The application is allowed in terms of prayer clause (B) which reads thus:

“B.

The proceeding bearing HMP No.177/2018 filed by the respondent before the learned Civil Judge Senior Division, Kalyan may kindly be transferred to Aurangabad (Family Court) i.e. appropriate forum having jurisdiction as deem fit by this Hon’ble Court in view of the totality of the situation and in the interest of justice.”

(ROHIT B. DEO, J.)