

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

MISCELLANEOUS CIVIL APPLICATION NO.5 OF 2019

Nisha W/o Rohit Sonakavade .. APPLICANT

VERSUS

Rohit S/o Laxmidas Sonakavade .. RESPONDENT

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Adv.Mr.A.N.Sabnis h/f S.N.Lale Yelwatkar for applicant.

Adv.Miss S.P.Mahajan for respondent.

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CORAM : MANGESH S. PATIL, J.

DATE : 12/10/2020

PC. :-

This is an application under Section 24 of the Code of Civil Procedure by a wife seeking transfer of Hindu Marriage Petition No.42/2018 stated to be pending on the file of learned Civil Judge, Senior Division, Thane to the Family Court at Latur.

2] The applicant submits that the Petition before the Thane Court is filed by the respondent husband for annulment of marriage by resorting to Section 12(1)(a) of the Hindu Marriage Act, 1955. Her learned advocate submits that the applicant is presently residing at Latur which is at a distance of 473 Kms. from Thane. Being a lady it is impossible and difficult for her to commute between the two places on her own. There are no relatives for her to stay back in Thane. Even there is a possibility of respondent harassing and

threatening her if she goes to Thane. Besides, already couple of other proceedings have been lodged by her at Latur against the respondent in the form of a Criminal Case bearing R.C.C. No.654/2019 for the offence punishable under Section 498-A etc. of the I.P.C. and another proceeding under the Protection of Women from Domestic Violence Act bearing P.W.D.VA.No.30/2019. The learned advocate therefore submits that the application may be allowed and the H.M.P be transferred from Thane to Latur as prayed for.

3] The learned advocate Miss.Mahajan for the respondent husband strongly opposes the application by referring to his affidavit in reply. She submits that the application is vexatious and false. The grounds being put forth are absolutely untenable. In fact the respondent is now posted at Vengurla as Probationer Officer in a nationalized bank and will have to commute between Vengurla to Latur which places are almost 700 Kms. apart. That would put him to a greater hardship. She would point out that the application has been filed with an ulterior motive to cause harassment to him. She would submit that there are no sufficient grounds to transfer the Petition from Thane to Latur. Lastly she points out that the other two proceedings filed by the applicant at Latur have been filed during pendency of this application in order to cause harassment to the respondent.

4] In the alternative, the learned advocate Miss.Mahajan submits that as is stated in affidavit in reply, it would be appropriate to transfer the Petition from Thane to Pune instead of Latur which would be equidistant for both the sides to attend.

5] I have carefully gone through the papers. It is trite that in most of the matrimonial disputes, the wives are considered to be weaker side. When the applicant is resident of Latur which is admittedly at a distance of more than 470 Kms. from Thane, and when pursuant to the matrimonial dispute the applicant has started residing with her parents at Latur, going by the balance of convenience, she would face a greater hardship if the matter is allowed to remain at Thane than that would be faced by the respondent if it is transferred to Latur. Besides, as is stated at the bar, two other proceedings one in the form of a Criminal case under Section 498-A of the I.P.C. and the one under the Domestic Violence Act are now pending in the Courts at Latur. Incidentally, the respondent will have to defend those cases in the Courts at Latur. This would in my considered view provide another ground to show that the respondent would not face a greater hardship if the Petition is now transferred from Thane to Latur.

6] However, simultaneously, in order to obviate such transfer being used as a tool in the hands of the applicant to harass the respondent, by causing him to appear frequently in different proceedings at Latur, it would be appropriate to direct the Courts at Latur to fix the dates as far as possible in all the matters between the parties on the same day.

7] The Application is allowed. The Hindu Marriage Petition No.42/2018 pending on the file of Civil Judge, Senior Division, Thane is transferred to the Family Court at Latur. The parties to appear before the Family Court at Latur on **27/11/2020** and there shall be no need for the Family Court to issue fresh notices to them.

8] As far as possible, all the Courts at Latur shall fix the dates in the matters before them on the same dates.

[MANGESH S. PATIL, J.]

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