

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

939 MISC.CIVIL APPLICATION NO.47 OF 2020

**MAYURA MANGESH GITE
VERSUS
MANGESH SADASHIV GITE**

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Advocate for Applicant : Mr. Dama Prashant P.
Advocate for Respondents : Mr. Vishwajeet R. Jain

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**CORAM : M.G. SEWLIKAR, J.
DATE : 13.07.2021**

PC.:-

Heard Shri Dama learned counsel for the applicant and Shri Vishwajeet Jain learned counsel for the respondent (sole).

2. Facts leading to this application are that applicant and respondent got married in the year 2019. Soon after the marriage there was a conflict between the applicant and respondent owing to which applicant left her matrimonial place and went to her maternal place. Respondent has filed petition under the Hindu Marriage Act, 1955 before the Family Court, Aurangabad. Applicant is the resident of Nashik. She contends that she is alone. Her father passed away about ten years ago. She has to come alone all the way from Nashik to Aurangabad to attend the Court proceedings. Therefore, she is seeking transfer of HMP No.A-03/2020 to Family Court, Nashik.

3. Shri Jain submits that the applicant did not live with the respondent. She has harassed the respondent and she left the house of the respondent on her own. He submits that this is another method of harassing the respondent. Shri Jain further submits that the applicant's sisters and their husbands are residing at Nashik and she has support of her relatives. Respondent has no support. His mother is also ailing. Applicant is an educated lady. She is a Lecturer in K.K. Wagh College, Nashik. She can very well come to Aurangabad for prosecuting the proceedings. She can reach Aurangabad in three hours. Frequency from Nashik to Aurangabad by bus and by train is good. Therefore, applicant has no reason to seek transfer of proceedings from Aurangabad to Nashik. He, therefore, prayed for dismissal of the application.

4. Shri Dama counters the argument stating that job of applicant is not of a permanent one and she is working on temporary basis.

5. It is not the case of the respondent that because of physical incapacity he is not in a position to attend the Court at Nashik. He is a Teacher. But according to Shri Jain respondent lost his job due to pandemic and today he is jobless. Therefore, he does not have wherewithal to go to Nashik from Aurangabad for prosecuting the proceedings of HMP.

6. So far as loss of job by the respondent is concerned, no document is placed on record to that effect. Respondent has not alleged that because of some ailment he is not in a position to attend the Court at Nashik. His only contention is that his mother is ailing. No document to that effect is produced either. As against this applicant is a lady. In the case of **Rohinee Amol Badgujar V/s. Amol Ramlal Badgujar** in M.C.A. No.253/2018 this Court has observed that the hardships and inconvenience of the wife deserves consideration, unless the husband can indicate that it is impossible for him to attend the proceeding at the place of choice of the wife. Respondent has not brought anything on record to show that it is impossible for him to attend the Court at Nashik. As observed by this Court hardship and inconvenience faced by the wife deserves consideration in such matters. Applicant being a lady cannot travel alone. In this view of the matter, I deem it appropriate to transfer petition for conjugal rights to Family Court, Nashik. In this view of the matter, following order is passed.

ORDER

- I) Application is allowed.
- II) HMP No.A-03/2020 pending in the Family Court, Aurangabad is transferred to Family Court, Nashik.
- III) With these directions application stands disposed of.

[M.G. SEWLIKAR, J.]