

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

48 MISC.CIVIL APPLICATION NO.83 OF 2021

**ANAGHA SHASHIKANT ALIAS PRAMOD KAMBLE THR HER
NATURAL GUARDIAN SNEHA KAMBLE AND ANOTHER
VERSUS
SHASHIKANT ALIAS PRAMOD NARAYAN KAMBLE**

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**Advocate for Applicants : R B Deshmukh
Advocate for respondent : Irpatgire**

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**CORAM: MANGESH S PATIL,J.
DATE : 06.12.2021**

P.C.:

This is an application under Section 24 of the Code of Civil Procedure by the applicants who are the daughter and wife of the respondent seeking transfer of a Divorce proceeding filed by him and pending in the Court of Civil Judge, Senior Division at Panvel to the family Court at Latur.

2] I have heard learned advocates of both the sides.

3] The learned advocate for the applicants submits that since after the couple got separated, she has been residing with her parents at Latur. Husband had instituted a proceeding for restitution of conjugal rights under Section 9 of the Hindu Marriage Act in the Family Court at Latur. The applicants subsequently filed a proceeding for maintenance under Section 125 of the Code of Criminal Proceeding in the

Family Court at Latur. Thereafter he filed withdrew the proceeding for restitution of conjugal rights and filed a divorce proceeding in the Court at Panvel with an ulterior motive to harass them. The wife has no source of income. The distance between the two places is more than 500 Kms. It would be difficult for her to travel from Latur to Panvel on her own for defending the divorce proceeding. She has to look after the four year old daughter. As against this the respondent-husband is serving as an Officer in a bank. Currently he is posted in Mumbai. Even otherwise, he will have to travel to Latur in a proceeding under Section 125 of the Cr.P.C. For the sake of convenience of the wife, the divorce proceeding may be transferred from Panvel to Latur.

4] Learned advocate Mr.Irpatgire for the respondent husband submits that currently the applicant has been residing in Pune, therefore, it would be convenient for both the sides to appear in any Court at Pune. The respondent being in the employment of a bank it would cause hardship to him if he is made to travel between Panvel and Latur and that would affect his employment as well.

5] I have carefully considered the rival submissions. One need not reproduce the *catena* of judgments of the Supreme Court touching the aspect of such transfer of matrimonial proceeding at the request of a wife. As has been held repeatedly that her convenience should be of paramount

consideration.

6] Bearing in mind the above proposition, it is conspicuous that the respondent husband had filed a proceeding for restitution of conjugal rights under Section 9 of the Hindu Marriage Act at Latur but seems to have devised a mode to somehow see to it that the applicants suffer some hardship else once having instituted a proceeding for restitution at Latur he would not have chosen a place which is far away from Latur.

7] Admittedly, a proceeding for maintenance under Section 125 of the Cr.P.C. has been filed by wife which is pending at Latur. The respondent husband will have to defend that proceeding by going to Latur. As against this, it would cause hardship to both the sides if the proceeding for maintenance is allowed to go on at Latur and the divorce proceeding at Panvel. Instead it would be appropriate if the divorce proceeding is now transferred to Latur with a rider in the form of a direction to all the Courts at Latur whichever will be taking up these matters between the parties, to list all these matters on the same date to obviate any avoidable hardship.

8] The application is allowed. The Hindu Marriage Petition No.106/2020 is transferred from the Court of Civil Judge, Senior Division at Panvel to the Family Court at Latur. The

parties shall appear before the Family Court at Latur on **03/01/2022** and there shall be no need for that Court to issue any notice to them.

9] On such transfer, all the Courts taking up different matters between the parties at Latur shall see to it that as far as possible all these matters are listed on the same date till those are disposed of.

[MANGESH S. PATIL,J.]

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