

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

MISC.CIVIL APPLICATION NO.98 OF 2021

**KASTURI SACHIN DHOTE ALIAS KASTURI SUDHIR MAHAJAN
VERSUS
SACHIN PRADEEP DHOTE**

...
Advocate for Applicant : Mr. Sunil B. Jadhav
Advocate for Respondents : Ms. Sunita Panda
...

CORAM : MANGESH S. PATIL, J.

DATE : 13.08.2021

PER COURT :

This is an application under Section 24 of the Civil Procedure Code by a wife against the husband seeking transfer of a petition for restitution of conjugal rights preferred by him under Section 22 of the Special Marriage Act pending in the Family Court at Pune to the Family Court at Aurangabad .

2. The learned advocate for the applicant submits that already the wife had filed a divorce proceeding in the Family Court at Aurangabad on 03.11.2020. The husband has to prosecute that in the Family Court at Aurangabad. It is subsequent that he has instituted the proceeding in the Family Court at Pune under Section 22. The wife is alone in the family. Her father is a retired person and she will have to commute to Pune for attending the proceeding. When she has been residing in Aurangabad and the husband can prosecute both the petitions at Aurangabad, the

convenience demands that the matter at Pune be transferred to Aurangabad and there would be no inconvenience to the husband.

3. The learned advocate for the respondent husband submits by referring to the affidavit-in-reply that wife belongs to a locally influential family and the husband entertains a reasonable doubt that there could be some mercy shown by the learned Judge of the Family Court at Aurangabad. She also points out that some of the relatives of the applicant wife could get the divorce proceeding decided within 7 months in the Family Court at Aurangabad which indirectly suggests that her family could even influence the matter if it is transferred from Pune to Aurangabad.

4. The learned advocate for the respondent husband further submits that the wife is well educated and a fearless traveller. There are number of modes of transport which she can very conveniently avail to commute between the two places. Merely because she finds it convenient, the matter may not be transferred.

5. I have considered the rival submissions and perused the papers. It is trite that amongst the couple, the wife is considered to be a weaker partner.

6. Admittedly, the applicant wife has been residing in Aurangabad. She has already instituted a divorce proceeding which is pending in the Family Court at Aurangabad.

7. Needless to state that the respondent husband must have been or may have to prosecute this matter by coming down to Aurangabad from

Pune. It would therefore be appropriate and in the fitness of things rather convenient if even the matter which is pending in the Family Court at Pune is transferred to Aurangabad where even otherwise the husband has to come down to. Necessary precaution can be taken to avoid any possible hardship that could be caused to him by directing the Family Court, Aurangabad to list both these proceedings on the same date as far as possible.

8. The Application is allowed. The Petition No.151/2021 pending on the file of the learned Judge of the Family Court, Pune under Section 22 of the Special Marriage Act, 1954 is transferred to the Family Court at Aurangabad. However, the Family Court at Aurangabad shall, as far as possible, list both these proceedings on the same date.

(MANGESH S. PATIL, J.)

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