

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

MISC. CIVIL APPLICATION NO.246 OF 2019

Asema Mudasseer Sayyad

Applicant

Versus

Mudasseer Rafique Sayyad

Respondent

Mr.F.M.Kazi, advocate for the applicant.

Ms.G.R.Syed, advocate for Respondent-sole.

CORAM : AVINASH G. GHAROTE, J.

DATE : 23rd July, 2021.

PC :

1 Heard Mr.G.R.Syed, learned Counsel for the applicant.

2 This is an application for transfer of the proceeding bearing M.C.A. No.280 of 2019, initiated by the non applicant-husband for custody of minor children, pending on the file of District Judge-3, Ahmednagar, to the Family Court at Aurangabad, where the non applicant wife has already initiated proceedings under the Domestic Violence Act.

3 It is submitted that the mother of the applicant was suffering from tuberculosis and cancer to which she has

succumbed on 25.11.2019 and she has now only her father who is aged and unable to travel. There is no other person who can accompany her to Ahmednagar. Apart from this, she apprehends that if she takes her children to Ahmednagar, they would be snatched away by the husband.

4 Mr.Syed, learned Counsel for the non applicant, submits that the husband is ready and willing to provide independent accommodation to the applicant at Parner so that the children should not be deprived from the educational facility which they were having and so also day-to-day amenities.

5 The said offer is not acceptable to the applicant-wife, in view of the reason, for which she claims she was forced to leave the matrimonial house, which was a demand for Rs.40 lakhs. Be that as it may. It is a settled position of law, that in matrimonial matters, the convenience of the wife has to be looked into while deciding applications for transfer of the proceeding. The distance between Ahmednagar and Aurangabad is nearly 110 Kms, and would not cause any inconvenience to the non-applicant husband if the proceedings are transferred to Aurangabad.

6 That being the position, MCA No.280 of 2019, pending before District Judge-3 at Ahmednagar, shall be transferred to the Family Court at Aurangabad. The parties shall appear before the Family Court, Aurangabad, on 09th August, 2021, by which date the record of MCA No.280 of 2019, be transmitted by the District Judge-3, Ahmednagar to the Family Court, Aurangabad.

7 Misc. Civil Application is disposed of. In view of disposal of MCA, Civil Application No.5355 of 2021, also stands disposed of.

(AVINASH G. GHAROTE)
JUDGE

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