

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

71 MISC.CIVIL APPLICATION NO.133 OF 2021

**NISHA SUJIT JADHAV ALIAS NISHA ASHOK JAGDHANE
VERSUS
SUJIT JOSEF JADHAV**

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Advocate for Applicant : Mr. S.A. Ambad.
Advocate for Respondent : Mr. Satish M. Kshirsagar.

CORAM : MANGESH S. PATIL, J.
DATE : 06.09.2021.

PER COURT :

Heard both the sides.

2. The applicant who is the wife of respondent is seeking transfer of a divorce petition initiated by him in the Family Court at Pune to the Court in Aurangabad.

3. According to her since after separation she has been residing at Aurangabad in her parental home. She has a child aged 2 years and is unable to commute between Aurangabad and Pune which places are 225 k.m. apart. She would find it difficult to commute between the places to defend the divorce proceeding.

4. Her learned advocate would submit that the applicant has also filed a proceeding under Section 12 of the Protection of Women from Domestic Violence Act in the Court at Aurangabad. Even after filing of this application she has initiated a proceeding under Section 125 of the Code of Criminal Procedure, also in a Court at Aurangabad. The respondent will have to attend both these matters by coming down to Aurangabad. He is in the permanent employment of a reputed company and earning more than Rs.

40,000/- per month. For all these reasons those proceedings pending at Pune may be transferred to Aurangabad to avoid hardship to the applicant.

5. The learned advocate for the respondent referring to his affidavit in reply submits that he is suffering from lumbar spondylosis and has been taking treatment. He is unable to commute between Pune and Aurangabad and the application may be rejected having been filed based on false facts. He also submits that he has also produced on record medical papers.

6. I have considered the rival submissions and perused the papers. There are catena of decisions touching the aspect as regards transfer of such proceedings arising from matrimonial disputes.

7. The applicant is a wife having a two year old child. She has been residing at her parental home since the couple separated. Even in the divorce proceeding the applicant has shown her address of Aurangabad as her additional address.

8. The applicant has filed couple of proceedings in the Courts at Aurangabad and the respondent will have to defend those by coming down to Aurangabad.

9. The applicant has a two year old child and will have to commute between Pune and Aurangabad which is a distance of 225 k.m. She will certainly face hardship if the matter is allowed to continue in the Family Court at Pune. In case of her requiring to stay back if such a contingency arises in the divorce proceeding at Pune it would be certainly difficult for her to stay put some where with her child.

10. As against this the respondent would not face much hardship if he is made to come down to Aurangabad after the divorce proceeding is transferred. Care can be taken to avoid any hardship being caused to him by directing all the Courts taking up the matters between the parties at

Aurangabad to list these matters on same day.

11. The medical condition being put forth by the respondent as a defence seems to be merely an attempt to oppose the transfer. In his reply he has not stated about having discontinued his employment or having taken a lay off because of his medical condition.

12. Considering all the aforementioned facts and circumstances, the application deserves to be allowed.

13. The Application is allowed. The matter P. A. No. 889/2021 pending on the file of the Family Court at Pune is transferred to the Family Court at Aurangabad.

14. The Parties shall appear before the Family Court at Aurangabad on 04.10.2021. There shall be no need for the Family Court to issue any notice to the parties.

15. All the Courts taking up different matters between the parties including the matter to be transferred shall see to it that as far as possible all these matters are listed on the same dates.

(MANGESH S. PATIL, J.)

mkd/-