

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

MISC.CIVIL APPLICATION NO.111 OF 2020

**SWATI SWAPNIL BANKAR
VERSUS
SWAPNIL RAJU BANKAR**

...
Advocate for Applicant : Mr. Vilas P. Savant
Advocate for Respondent : Mr. Ashutosh S. Kulkarni
...

CORAM : MANGESH S. PATIL, J.

DATE : 25.10.2021

PER COURT :

This is an application under Section 24 of the Code of Civil Procedure.

2. The applicant is the wife of the respondent. The respondent has filed a divorce proceeding which is pending in the Court of Civil Judge Senior Division, Pune. Since after separation she has been residing at her parental place at Georai, District Beed. She has also instituted a proceeding for maintenance under Section 125 of the Code of Criminal Procedure, a proceeding under Section 12 of the Protection of Women from Domestic Violence Act and even a criminal case for the offence punishable under Section 498-A etc. of the IPC and all these three matters are now pending before the concerned Courts at Georai. She now requests that the divorce proceeding be transferred to Beed for the sake of her convenience and to avoid any harassment.

3. The learned advocate for the applicant submits that the applicant has been residing at parental home with a six years old child. The respondent has never paid anything to her since the couple has separated, for her maintenance or the maintenance of the child. The distance between the two places Georai and Pune is more than 250 kms. Even she has lost her father during Covid-19 pandemic and therefore the divorce proceeding may be transferred to Beed.

4. The learned advocate Mr. Kulkarni for the respondent submits that it is after the respondent filed the divorce proceeding that the applicant has engineered three cases and filed it in the court at Georai. The divorce proceeding cannot be transferred to Georai as the Court of competent jurisdiction is not available. It will have to be transferred to Beed and that would put the respondent to harassment. It would be appropriate if all the matters are clubbed together and listed before the same court. He would further submit that he does not have any instructions as to if the respondent has paid anything for the maintenance of the applicant.

5. I have carefully considered the rival submissions. The Supreme Court in catena of cases has consistently laid down that the convenience of the weaker section that is wife is to be a paramount consideration while considering such request for transfer.

6. There is no dispute about the fact that since couple has become separat some time in the year 2017 the applicant has been residing in her parental home at Georai. There is also material to show that she has

initiated three proceeding which are pending in the courts at Georai. The divorce proceeding instituted by the respondent is in Pune. The applicant is having a six year old child. Besides her father is stated to have died during the Pandemic. There is no record to show that the respondent has ever extended any financial aid to the petitioner or their son since the couple has got separated. Even the attempt at Mediation has failed.

7. Considering all the aforementioned facts and circumstances, it would be just and proper to allow the application and transmit the divorce proceeding from Pune to Beed.

8. The Application is allowed. The H.M.P No.1106/2018 be transferred from the court of the Civil Judge Senior Division, Pune to the court of the Civil Judge Senior Division, Beed. The parties shall appear before the Civil Judge Senior Division, Beed on 01.12.2021 and there shall be no need for that court to issue any notice to the parties.

(MANGESH S. PATIL, J.)