

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

MISC.CIVIL APPLICATION NO.163 OF 2017

SOW. PALLAVI RAJU PATIL
VERSUS
RAJU RAMESHWAR PATIL

...
Advocate for Applicant : Mr. Pravin N. Kalani
Advocate for Respondent : Mr. Nirmal R. Dayama
...

CORAM : MANGESH S. PATIL, J.

DATE : 21.08.2021

PER COURT :

By invoking the powers under Section 24 of the Code of Civil Procedure, the applicant wife is praying for transfer of a divorce proceeding initiated by the respondent husband in the Court at Jalgaon bearing H.M. Petition No.306/2017 to a competent Court at Parbhani.

2. I have heard the learned advocate for the applicant as also the learned advocate for the respondent.

3. As can be appreciate, the couple was married in the year 2015 but soon got separated. They have a child out of the wedlock. The reasons for separation apart, after such separation the petitioner with her infant went back to her parental house at Parbhani and lodged a proceeding under Section 12 of the Protection of Women From Domestic Violence Act, 2005 seeking various reliefs on 08.10.2015. It is thereafter that the respondent filed the Divorce Proceeding in the Court at Jalgaon in June 2017.

Obviously, since thereafter he must have been required to defend the proceeding under the Domestic Violence Act at Parbhani. He is a resident of Jalgaon. It is a fact that the Domestic Violence Act proceeding was subsequently decided. She has filed an execution proceeding to enforce the order passed therein whereas he has challenged that judgment in an Appeal and both these proceeding are pending at Parbhani.

4. As can be seen, the respondent husband has been in some employment as is mentioned by him in the Appeal Memo filed at Parbhani. As against this the applicant does not seem to be in any employment and also does not seem to have any permanent source of income.

5. Taking into account the fact that the applicant is a lady having a small child, it would certainly be difficult for her to commute between Parbhani and Jalgaon to defend the Divorce Proceeding which are places more than 300 kms apart. It is also a matter to be borne in mind that considering the distance between the two places, it would certainly be difficult for the applicant to go to Jalgaon and may perhaps to stay overnight that too with a minor child.

6. The law would always lean in favour of a weaker member of the couple. Mere readiness of the respondent husband to bear the expenses of commutation would not serve the purpose. It would be in the fitness of thing that instead of applicant it is the respondent husband commutes between the two places.

7. The convenience also demands that now that he has to

prosecute the Appeal lodged by him at Parbhani and also defend the execution proceeding at Parbhani, even it would be convenient for him to prosecute his divorce proceeding by going to Parbhani rather than making the applicant to go to Jalgaon.

8. Taking into account all the aforementioned facts and circumstances, the Application deserves to be allowed.

9. The Application is allowed. The H.M. Petition No.306/2017 pending in the file of Family Court at Jalgaon is transferred to the Family Court at Parbhani.

10. The parties shall appear before the Family Court at Parbhani on 20.09.2021 and there shall be no need for the Family Court to issue notices to the parties even if they do not appear.

(MANGESH S. PATIL, J.)