

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

MISC. CIVIL APPLICATION NO.11 OF 2021

Gayatri Anupam Rathod,
Age : 34 years, Occu. Photographer
and Legal Consultant,
R/o Plot No.38, Vasant Nagar,
Jawahar Colony, Aurangabad
Tq. and District Aurangabad

APPLICANT

VERSUS

Anupam Kesharsingh Rathod,
Age : 41 years, Occu. Service,
R/o C-2, Krushna Keval Township,
Near Parmar Pawan, Kondwa Road,
Pune-48

RESPONDENT

Mr. S.V. Mundhe, Advocate for the applicant
Mr. Ujwal S. Patil, Advocate for the respondent

CORAM : MANGESH S. PATIL, J.

DATE : 01.10.2021

PER COURT :

Heard both the sides finally.

2. This is an application under Section 24 of the Code of Civil Procedure whereby the applicant, who is the wife of the respondent, is seeking transfer of a divorce proceeding filed by him and pending in the Family Court at Pune to the Family Court at Aurangabad.

3. According to the applicant, since after the couple got

separated, she has returned to her parental home at Aurangabad. Their daughter Amaira is barely 4 to 5 years old. She has been admitted to a school at Aurangabad. It is difficult for her to attend the divorce proceeding by going to Pune and taking into account her convenience as also the fact that the child is studying at Aurangabad, the divorce proceeding be transferred to Aurangabad.

4. The learned Advocate for the applicant further submits that though belatedly, the applicant has subsequently filed a proceeding against the respondent under Section 12 of the Protection of Women from Domestic Violence Act, 2005 ("DV Act", for short) and it is pending in a Court at Aurangabad. Therefore, even otherwise, the respondent/husband will have to come to Aurangabad to defend that proceeding.

5. The learned Advocate for the respondent/husband submits that even according to the applicant, as averred in the application, she was working as a photographer and the couple had their home at Thane. Subsequently, the couple migrated to Pune. Even now the applicant has a flat in Pune and in fact, has been residing there. Therefore, it would have been more convenient for both the sides to prosecute all the disputes inter se in the Courts in Pune. It is only with a view to harass him that the applicant now wants the divorce proceeding to be transferred to Aurangabad. She has not been prosecuting the proceeding under the DV Act diligently. The respondent's request regarding visitation rights is

pending in that proceeding but she is not coming forward to respond and in the circumstances, the application may be rejected.

6. After having heard both the sides and perusing the record, it is apparent that there is no dispute about the fact that applicant's parental home is at Aurangabad. Pursuant to the direction given on the last date, her learned Advocate has produced the copies of the receipts to demonstrate that the applicant has admitted the child in Gurukul Olympiad School at Aurangabad and the fees was paid on 05.04.2021. Without indulging into the dispute as to if the applicant still goes to Thane or Pune, the fact remains that the child of the couple has been admitted in a school at Aurangabad and she would be required to frequently visit to the place of her abode at Aurangabad.

7. Apart from the above state-of-affairs, she has also filed a proceeding under the DV Act in a court at Aurangabad. Irrespective of the fact as to whether the divorce proceeding is transferred from Pune, as prayed for, the respondent/husband will have to come down to Aurangabad to defend the proceeding under the DV Act.

8. Considering all the aforementioned facts and circumstances, it would be just and proper to transfer the divorce proceeding from Pune to Aurangabad, simultaneously, taking necessary precaution that such transfer would not put the respondent/husband to any harassment. Such an eventuality can easily be avoided by directing the courts at Aurangabad,

wherever the proceedings would be pending between the parties, to conduct/list those matters on the same day.

9. The application is allowed. The Petition (P.A.) No. 982/2020 pending between the parties in the Family Court at Pune is transferred to the Family Court at Aurangabad. The parties shall appear before the Family Court, Aurangabad on 14.10.2021 and there shall be no need for that Court to issue any notice to the parties.

10. The Family Court at Aurangabad as also the other Courts wherever the proceedings between the parties are pending shall invariably list the matters before them on the same date as far as possible.

11. The application stands disposed of.

[MANGESH S. PATIL]
JUDGE