

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

MISC. CIVIL APPLICATION NO.10 OF 2019

Priyanka Prateek Patil

Applicant

Versus

Prateek Subhash Patil

Respondents

Mr.Yogesh H. Jadhav, advocate holding for Mr.Girish A. Nagori,
advocate for the Applicant
Ms.Gauri Joglekar with Mr.Shrikant Bhilare and Mr.Amit A.
Yadkikar, advocates for the Respondent.

CORAM : V.K.JADHAV, J.

DATE : 23rd February, 2021.

PC :

1 By consent of learned Counsel for respective parties,
heard finally at the stage of admission

2 This is about transfer of matrimonial proceedings from
Thane to Jalgaon.

3 The applicant-wife resides with her parents at Jalgaon.
Respondent-husband has filed HMP No.137 of 2018 for nullity of
marriage and the same is pending on the file of Family Court at
Thane.

4 The learned Counsel for the applicant-wife submits that distance between Thane and Jalgaon is nearabout 560 Kms. It is not convenient for the applicant-wife to travel such a long distance to attend the Court dates at Thane. The applicant-wife submits that the applicant-wife has already filed Marriage Petition bearing No.697 of 2017 for restitution of conjugal rights before the learned Civil Judge, Senior Division, Jalgaon and in the said proceedings, Respondent-husband has put in his appearance. The learned Counsel for the applicant-wife submits that there is nobody in the family to accompany her to travel such a long distance to attend the Court dates at Thane. The applicant-wife has no independent source of income. The learned Counsel submits that if the Marriage Petition filed by the Respondent-husband is transferred to Jalgaon, the same Court would decide both the marriage petitions and same is also necessary to avoid conflicting views.

5 The learned Counsel for the Respondent-husband submits that Respondent-husband is ready to bear travel expenses of the applicant-wife. Furthermore, even though Respondent-husband has filed Marriage Petition seeking nullity of marriage

way back in the year 2018, however, till stay is granted by this Court, under one or the other pretext, the applicant-wife has avoided service of notice. The learned Counsel for the Respondent-husband, on instructions, submits that as per the bailiff report, even the applicant-wife resides at Vapi in the State of Gujarat and she is not residing at Jalgaon with her parents. The learned Counsel submits that mother of the Respondent-husband has initiated proceedings under the provisions of the Protection of Women from Domestic Violence Act, 2005, against the applicant-wife and the said proceedings are also pending before the Court at Thane.

6 In the following cases, the Hon'ble Supreme Court as well as this Court has reiterated that in the matrimonial proceedings, convenience of the wife is necessary to be considered.

(i) **Vennangot Anuradha Samir Vs.**

Vennangot Mohandas Samir, 2016 (1) Bom.C.R.

250;

(ii) **Soma Choudhuri Vs. Gourab Choudhuri**

(2004) 13 SCC 462;

- (iii) **Anjali Ashok Sadhwani Vs. Ashok Kishinchand Sadhwani**, AIR 2009 SC 1374;
- (iv) **Vaishali Shridhar Jagtap Vs. Shridhar Vishwanath Jagtap**, 2016 AIR (SC) 3584;
- (v) **Sumita Singh Vs. Kumar Sanjay**, (2001) 10 SCC 41 : AIR 2002 SC 396;
- (vi) **Mahadevi Mehtre Vs. Gopal**, 2015 (5) AIR Bom. 250;
- (vii) **Mona Aresh Goel Vs. Aresh Satya Goel**, 2000 (9) SCC 255 : AIR 2000 SCW 2652;
- (viii) **Ravinder Kaur Vs. Hitinder Singh**, AIR 2000 SC 3403;
- (ix) **Rena Gautam Vs. Vinod Gautam**, AIR 2000 SC 3405;
- (x) **Reena Mehra Vs. Rohit Rai Mehra**, AIR 2003 SC 1002;
- (xi) **Rakhi Banerjee Vs. Subhankar Mukherje**, AIR 2009 SC 928;
- (xii) **T. Gayatri Devi Vs. Tallepanent Sreekanth**, 2013 (6) Bom.C.R. 119 (SC);

(xiii) **Anita Balkrishna Barge Vs. Balkrishna**

Sopan Barge, 2011 (3) Bom.C.R. 866

(Aurangabad Bench); and

(xiv) **Smita Dhananjay Patil Vs. Dhananjay**

Krishnakumar Patil, 2013 (5) Bom.C.R. 694

(Aurangabad Bench).

7 In the instant case, even though the Respondent-husband is ready to bear the travel expenses for the applicant-wife, it is not convenient for the applicant-wife to travel such a long distance alone and considering the distance of 560 Kms between Thane and Jalgaon, it is not possible for the applicant-wife to return to her parents' residence at Jalgaon, during the course of the day. Furthermore, in order to avoid conflicting views, it would be just and proper if the Marriage Petition filed by the Respondent-husband is transferred to the same Court before whom the Marriage Petition filed by the wife, seeking restitution of conjugal rights, is pending at Jalgaon. Thus, considering entire aspects of the case, I am inclined to allow this Misc. Civil Application.

Hence, the following order:

- (i) Misc. Civil Application is allowed in terms of prayer clause "B" and disposed of accordingly.

(V.K.JADHAV)
JUDGE

adb