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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

MISC. CIVIL APPLICATION NO. 252 OF 2021

WITH

INTERIM APPLICATION NO. 4247 OF 2021

AND

INTERIM APPLICATION ST. NO. 8871 OF 2021

Vineet Krishnakumar Chawla

...Applicant

Versus

Shilpa Vineet Chawla

...Respondent

MISC. CIVIL APPLICATION NO. 119 OF 2021

WITH

INTERIM APPLICATION NO. 2080 OF 2021

Shilpa Vineet Chawla Alias Shilp Joshi

...Applicant

Versus

Vineet Krishnakumar Chawla

...Respondent

Mr. Naveen Sharma, i/b Preetisingh J. Pardeshi, for the Applicant in MCA/252/2021 & for the Respondent in MCA/119/2021.

Mr. Mayank Sharma, for the Respondent in MCA/252/2021 & for the Applicant in MCA/119/2021.

CORAM: Smt. Bharati Dangre, J.

DATED: 22nd December 2021

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P.C.:-

1. By the present two Miscellaneous Civil Applications, the respective husband and wife are seeking transfer of the proceedings filed by each against the other in two distinct Courts. Miscellaneous Civil Application No. 252 of 2021 is filed by the husband by which he is seeking transfer of Divorce Petition No. A-1033 of 2019 filed by the wife at Family Court, Nagpur to the Family Court at Pune. It is pertinent to note that this Petition is instituted by the wife in the year 2019, at the relevant time when she was temporarily residing in Nagpur.

Miscellaneous Civil Application No. 119 of 2021 is filed by the wife by which she is seeking transfer of the Custody Petition, i.e. Petition D No. 2 of 2020 filed by the husband in the Family Court at Pune to the Family Court at Thane since the wife along with her seven year old child is residing in Thane.

2. The undisputed facts are that the marriage between the parties was solemnized on 25.10.2012 at Nagpur. It is also not in dispute that the parties cohabited at Pune temporarily till a point of time when the wife moved to Nagpur to reside with her maternal aunt who offered shelter to her. However, since

she was not able to set up herself at Nagpur she has shifted to Thane in December 2019, and the reason for choosing Thane as a place of residence is that her parents are residing in Thane. The admitted fact is that as on date the wife is residing in Thane and it is informed by the Counsel for the wife that presently she is not having any job and she is a doctorate in Ayurveda (B.A.M.S.) and in absence of being engaged in any job, she is also dependent on her parents, who are also taking care of her as well as her son.

3. I made every attempt to convince the parties that they can agree to a common Court where both the proceedings can be proceeded simultaneously, being the Divorce Petition filed by the wife and the Custody Petition filed by the husband. However, the learned Counsel are not able to reach at a consensus, which has constrained me to pass an order on merits.

4. Since the wife has instituted the Divorce Petition at Nagpur, and since it is conceded by her Counsel that she is no longer residing at Nagpur, necessarily the proceedings will have to be shifted from the Family Court at Nagpur to an appropriate Court, which is either Family Court at Pune or Family Court at Thane. The claim of the husband is that it should be transferred to Pune, whereas the wife find it convenient to get the Petition transferred to Thane where she

is presently residing. The Respondent-husband is saved of the long and arduous journey of travelling to Nagpur and the distance between Pune and Thane being barely 150 kms, it is possible for him to undertake the journey for attending the Court in Thane where the Divorce Petition filed by the wife is sought to be transferred, the propriety demands that even the Custody Petition can be tried by the Family Court at Thane which is a relief claimed by the wife in her Miscellaneous Civil Application No. 119 of 2021.

5. Since the Family Court at Thane has access to the facility of video conferencing, the husband need not attend the proceedings on each and every date and on a direction being issued to the Family Court to avail the facility of video conferencing except whenever examination or cross-examination of the parties warrant attendance / personal presence in the Court can be arranged for. This would minimise the inconvenience to the husband to take up the journey, to attend the proceedings at Family Court at Thane.

I could see this is the only solution which can be offered in the backdrop that the wife is not having any job and is dependent on her parents and is also required to take care of her child who is of seven years.

6. Though inconvenience itself cannot be a ground to

transfer the proceedings, and since the parties continue to be governed by the principle of *dominus litis*, I deem it appropriate to pass the order of transferring the Custody Petition to the Family Court at Thane so that the proceedings can be assigned to the same Judge of the Family Court and any conflicting orders can be avoided.

The husband is otherwise availing the custody of the child in Thane on non-working Saturdays for four hours. The parties can jointly make a request to the Family Court at Thane to fix the proceedings on the said date so that the convenience of the husband can be taken care.

7. In the aforesaid circumstances, I pass the following order:

- a)** Miscellaneous Civil Application No. 252 of 2021 is partly allowed by transferring Divorce Petition No. A-1033 of 2019 filed by the wife to the Family Court at Thane;
- b)** Miscellaneous Civil Application No. 119 of 2021 is allowed by transferring the Custody Petition D. No. 2 of 2020 filed by the husband in the Family Court at Pune to the Family Court at Thane;
- c)** On transfer of both the proceedings to the Family

Court at Thane, the Principal Judge of the Family Court at Thane is requested to assign both the Petitions to the same Judge, with a request to culminate the proceedings within a period of one year, i.e. by 31st December 2022.

- d)** Needless to state that the parties shall render their cooperation to the Family Court at Thane in disposing of the matters.

8. Both the Miscellaneous Civil Application are disposed of in these terms.

9. All the pending Interim Applications are disposed of as infructuous.

(Smt. Bharati Dangre, J.)