

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

969 MISC.CIVIL APPLICATION NO.14 OF 2022

**KOMAL AVINASH SWAMI
VERSUS
AVINASH SATISH SWAMI**

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Ms. Priyanka Shinde, Advocate holding for Mr. Rakesh
Bramhankar, Advocate for the applicant.
Mr. D.M. Shinde, Advocate for the respondent.

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CORAM : SANDIPKUMAR C. MORE, J.

DATED : 13.10.2022.

ORDER:-

1. Leave to correct prayer clause (C) in respect of the appropriate Court dealing with Hindu Marriage Petitions at Basmat.
2. Heard the rival submissions. The applicant - wife is seeking transfer of Marriage Petition No. 1099/2021 filed by her husband respondent for getting divorce in the Court of Jt. Civil Judge (Senior Division), Kalyan, to the learned Court of . Civil Judge (Senior Division) at Basmat, District Hingoli.
3. Learned Counsel for the applicant submits that the distance between Kalyan and Basmat is more than 400 kms. Moreover, the applicant wife has also filed Cri. Misc. Appln. No. 25 of 2021 under the provisions of Protection of Women from Domestic Violence Act, 2005 in the concerned Court of

Magistrate at Basmat. Besides, one F.I.R. 184 of 2022 dated 22nd June 2021 under Section 498-A, 323, 504, 506/34 of I.P.C. has also been lodged by the applicant against the respondent and his family members. The learned Counsel for the applicant submits that the applicant is not having any independent source of income and on the contrary the respondent is attending the dates of proceedings at Basmat.

4. On the contrary, learned Counsel for the respondent - husband strongly opposed the application on the ground that father of the respondent is an old aged person, who is suffering from acute bleeding in right parietal region and requires continuous attendance, and therefore, if the proceedings are transferred to Basmat, then it would be difficult for the respondent to make arrangement for looking after his father.

5. It is significant to note that applicant - wife is not having any independent source of income. Moreover, respondent - husband is also attending dates of the proceedings lodged by applicant at Basmat. Further, considering distance between Basmat & Kalyan as mentioned above, it would be highly difficult for applicant to attend the dates of the proceedings at Kalyan. In view of the same and considering the convenience, following order is passed.

ORDER

- (i) The application is hereby allowed.
- (ii) Marriage Petition No. 1099 of 2021 pending in the Court of Jt. Civil Judge (Senior Division), Kalyan, is hereby transferred to the Court of Civil Judge (Senior Division) at Basmat for its disposal according to law.
- (iii) The respondent is directed to appear before the concerned Civil Judge (Senior Division) at Basmat on 21st November 2022.
- (iv) The respondent husband will be at liberty to mention before the learned Civil Judge (Senior Division), Basmat for getting suitable date, preferably the same date of the D.V. proceedings going on before the concerned Magistrate at Basmat. On such mentioning, the learned Civil Judge (Senior Division), Basmat shall consider the request of respondent favourably.
- (v) The application is accordingly disposed of.

(SANDIPKUMAR C. MORE, J.)