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

MISC. CIVIL APPLICATION NO.136 OF 2021

ROHINI YOGESH KSHIRSAGAR
VERSUS
YOGESH YASHWANT KSHIRSAGAR

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Mr S. R. Wakale, Advocate for applicant;
Mr R. S. Kasar, Advocate for respondent

CORAM : SMT. BHARATI DANGRE, J.

DATE : 1st February, 2022

PER COURT:

1. Heard the learned Counsel for the petitioner and the learned Counsel for the respondents.

The marriage between the applicant and the respondent came to be solemnized in the year 2014, but since the differences arose between them, it resulted in institution of the distinct proceedings by each of the parties.

2. The respondent/husband instituted proceedings for divorce under Section 13(i)(a) before the learned Civil Judge Senior Division, Ahmednagar on 17/03/2016, which is now transferred to the Family Court at Ahmednagar. The applicant/wife has also filed a complaint under the Protection of Women from Domestic

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Violence Act, 2005 at Pune and she has also filed the Misc. Criminal Application No.89/2015, before the learned J.M.F.C., Cantonment, Pune, for interim maintenance. Certain orders are passed on the applications filed by the applicant, but Since I am not concerned with the outcome of the said applications, I need not delve deep into the same.

3. By the present application, the applicant/wife is seeking transfer of the proceedings filed by the husband at Ahmednagar to the Court of learned Civil Judge Senior Division, Pune.

4. The learned Counsel for the applicant has invited my attention to the order passed by this Court on 06/09/2021, where the divorce proceedings pending before the Ahmednagar Court are stayed, pursuant to a direction that the respondent/husband shall deposit the arrears of maintenance in the proceedings under Domestic Violence.

The learned Counsel for the respondent makes a statement that from time to time the respondent has deposited arrears of maintenance and ultimately, it is for the applicant to seek the enforcement of the order passed by the respective Court and under the present proceedings, where applicant is seeking transfer of

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proceedings, an application being filed under Section 24 of the Code of Civil Procedure, I need not go into the merits of the said application depending upon the orders passed in ancillary proceedings.

5. Pertinent to note that, in the proceedings before the learned Family Court, i.e. P.A. No.20/2018 (petition filed by the husband which came to be transferred to the Family Court at Ahmednagar), the learned Judge, Family Court, on 24/07/2019, had issued the following directions :

“Petitioner husband is hereby directed that he shall pay an amount of Rs. 500/- to the respondent wife by way of travelling expenses as and when she attends this court proceeding from the date of present order.”

6. The wife has not made out any ground for transfer of the proceedings to the Court at Pune and merely because there are some proceedings pending before the learned J.M.F.C. in Pune, cannot be a ground to transfer the proceedings to Pune, particularly when the Family Court has taken care of the traveling expenses to be incurred by the wife. The proceedings filed by the husband are pending before the Family Court at Ahmednagar and it is informed by the learned Counsel for the respondent that the

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petitioner/husband has filed his evidence affidavit and even a no cross order has been passed against the present applicant, which has now been set aside.

7. In the wake of the above, since the proceedings were stayed by this Court, the Family Court, Ahmednagar was restrained from proceeding further with the petition filed by the husband.

8. Interest of both the parties would be better served, if the proceedings are continued by the Family Court at Ahmednagar, but subject to the stipulation that the Family Court shall not insist the presence of the applicant on every date. Barring the dates on which her presence is physically necessary, either for examination/cross-examination, she shall be compelled to attend the proceedings. On all other dates, she shall be exempted from appearance. This would minimize the inconvenience caused to the applicant. Further It is also directed that, on every date of hearing when the applicant/wife attends the proceedings in Ahmednagar Family Court, the husband shall pay an amount of Rs.1,000/-, which will take care of her travelling expenses and ancillary costs for undertaking the travel from Pune to Ahmednagar. The amount shall be deposited in the Family Court

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in advance before the date of a hearing, so that upon attending the proceedings, she will be able to withdraw the said amount.

9. Since the proceedings filed are of the year 2016 and are transferred to the Family Court, and renumbered as P.A. 20/2018, the learned Judge of the Family Court, Ahmednagar, is requested to conclude the said proceedings within a period of six months from today.

Needles to state that both the parties shall render their cooperation to the learned Judge in disposing of the proceedings.

With the aforesaid directions being issued, the Misc. Civil Application is disposed of.

(SMT. BHARATI DANGRE, J.)

sjk