

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

MISC.CIVIL APPLICATION NO.133 OF 2018

KIRAN AVINASH SHRIGANI
VERSUS
AVINASH MALLINATH SHRIGANI

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Advocate for the Applicant : Shri Mali D.S.
Advocate for the Respondent : Ms.Sonawane Sunita G.

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CORAM: SMT. BHARATI H. DANGRE, J.

DATE :- 15th February, 2022

Per Court:

1. The applicant wife is seeking transfer of the proceedings in the form of HMP No.209/2017 instituted by the Respondent Husband u/s 13(1)(ib) of the Hindu Marriage Act for dissolution of marriage, from the Court of the Civil Judge, Senior Division, Solapur, to the Court of the Civil Judge, Senior Division, Omerga, District Osmanabad.

2. The marriage between parties was solemnized in the year 2008 and the relationship did not blossom though there are two daughters born out of the said wedlock, who are presently residing with the husband. The parties resorted to instituting various proceedings against each other. The applicant wife filed an application u/s 125 of the Code of Criminal Procedure seeking maintenance from the respondent husband

before the JMFC, Omerga, which was granted and the maintenance to the tune of Rs.5,000/- has been granted to her. Against which, she has filed the revision before the District Court. The applicant wife has also instituted the proceedings before the learned Magistrate by invoking Section 12 of the Protection of Women From Domestic Violation Act, 2005. Similarly, in year 2018, she also filed HMP No.1/2018 before the learned Magistrate, Omerga, seeking restitution of conjugal rights.

As against this, the respondent/ husband has instituted HMP No.209/2017 before the learned Civil Judge, Senior Division, Solapur, seeking dissolution of marriage.

3. The learned counsel for the applicant further submits that the transfer of the proceedings deserves to be granted, since the respondent husband is otherwise, attending three proceedings instituted by the applicant/ wife at Omerga. The inconvenience to the wife in attending the proceedings at Solapur, which is at the distance of 100 kilometers from Omerga, is also the ground seeking transfer.

Both these grounds, however, fail to impress me. Just because the husband is attending three proceedings at Omerga, does not persuade me to grant the application and direct the husband to attend the fourth proceedings at Omerga on its transfer. Inconvenience of the wife, which should be taken into consideration while considering the application u/s 24 of the Code of Civil Procedure, but at the same time, the principle of

dominus litis shall also not be forgotten, since it is the choice of the party to institute the proceedings before the concerned Court, which has jurisdiction to entertain the same. Since the husband is residing in Solapur and is engaged in private service, he has chosen to institute the proceedings at Solapur.

4. The difficulty expressed filed by the wife in arranging for expenses in undertaking travel of 100 kilometers for attending the proceedings, can be sorted out by directing the respondent husband to pay the traveling expenses to the applicant wife whenever she is required to attend the proceedings filed at Solapur.

The parties arise at a consensus that the amount of Rs.1,000/- being paid for every date of proceedings, would serve the interest of justice and therefore, the respondent husband shall deposit an amount of Rs.1000/- for travel expenses of the wife in the Court at Solapur on an earlier date so that on the date on which she attends the proceedings, the amount shall be made over to her by the learned Court.

5. It is to be noted that the HMP filed by the husband is pending since 2017 and for some period of time, the proceedings are stayed by this Court and therefore, since I am not inclined to grant the request of the applicant wife to transfer the said proceedings to the Court at Omarga and rather, I deem it expedient to continue the proceedings in the court at Solapur itself. The learned Civil Judge, Senior Division, Solapur, is

directed not to insist upon the personal presence of the applicant wife on every date of proceedings, except when her presence is required for examination or cross examination and on all other dates, she shall be exempted from her personal appearance, subject to appearance put in by her lawyer.

Since the proceedings are pending since the year 2017, the learned Civil Judge, Senior Division, Solapur, is directed to expeditiously conclude the said proceedings within a period of one year from today. Needless to state that, both the parties shall render their cooperation to the learned Judge in expeditious disposal of the proceedings.

The Misc. Civil Application is, accordingly, disposed of.

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(SMT. BHARATI H. DANGRE, J.)