

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

MISC.CIVIL APPLICATION NO.152 OF 2021

BHARATI ROHIT JAGDALE
VERSUS
ROHIT HANUMANT JAGDALE AND ANOTHER

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Advocate for the Applicant : Shri B.B. Thombre
Advocate for the Respondent : Shri Dayanand M. Hange

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CORAM: SMT. BHARATI H. DANGRE, J.

DATE :- 27th January, 2022

Per Court:

1. Heard the learned counsel for the applicant and the respondent.

The applicant/ wife seeks transfer of HMP No.118/2020 filed by the respondent/ husband in the Court of the Civil Judge, Senior Division, Vita, District Sangli, to the Family Court at Aurangabad and the ground pressed into service is the inconvenience caused to her to travel to attend the proceedings. It is submitted that the applicant/ wife has also filed PWDVA No.79/2019, which is pending before the Judicial Magistrate First Class, Aurangabad, where she has claimed various reliefs under Section 12 of the Protection of Women from Domestic Violence Act, 2005 (for short "the DV Act, 2005").

2. The marriage between the parties came to be solemnized in

the year 2015 and in 2019, the husband instituted the HMP seeking dissolution of marriage. Approximately at the same time, the proceedings are also instituted by the wife under the DV Act, 2005.

3. On perusal of the proceedings, it is apparent that the proceedings filed by the wife are pending before the JMFC, Aurangabad, which can be conveniently transferred to the Family Court at Aurangabad in the wake of the powers conferred upon the Family Court under the Family Courts Act and also by virtue of the provisions contained in the DV Act, 2005, where the powers of the Magistrate under the DV Act, 2005 can well be exercised by the Family Court. In these peculiar circumstances, interest of justice would be better served if the proceedings filed by the husband in the Court of the Civil Judge, Senior Division at Vita, are also transferred to the Family Court at Aurangabad and to be decided along with the PWDVA proceedings filed by the wife. On the proceedings being clubbed together and assigned preferably to the same Judge of the Family Court, the same can be disposed of in a time bound manner.

4. In the peculiarity of the facts and circumstances, I deem it expedient to transfer HMP No.118/2020 from the Court of the Civil Judge, Senior Division, Vita, District Sangli to the Family Court at Aurangabad. Further, the proceedings filed by the wife in the form of PWDVA No.79/2019 before the Judicial Magistrate First Class, Aurangabad, shall also be transferred to the Family Court at Aurangabad.

The learned Chief Judge of Family Court is requested to preferably assign these two proceedings to the same Judge so as to avoid conflicting orders and also to minimize the time spent in litigation, since the common evidence can be permitted to be led, if at all necessary.

It is also further made clear that the learned Judge of Family Court, to whom the proceedings are assigned, while determining the proceedings, shall not, on every date, insist upon personal presence of the respondent in the wake of the covid-19 situation and except for the purposes of examination and cross-examination of the applicant and the respondent, his personal presence on every other day shall be exempted. The learned Judge of Family Court is also requested to expeditiously conclude the said proceedings and preferably within a period of one year from today. Needless to state that, both the parties shall render their cooperation to the learned Family Judge for early disposal of the proceedings.

This Misc. Civil Application is, therefore, made absolute in the aforesaid terms.

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(SMT. BHARATI H. DANGRE, J.)