

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
69 MISCELLANEOUS CIVIL APPLICATION NO.182 OF 2021**

ANJALI NARAYAN DEVKAR
VERSUS
NARAYAN EKNATH DEVKAR

Advocate for Applicant : Shri Sandesh R. Patil
Advocate for Respondent : Shri K.R. Doke

CÖRAM : M.G.SEWLIKAR, J.

DATE : 5th September, 2022

PER COURT :-

1. Heard.
2. This application is filed for transferring H.M.P. No.425 of 2020 pending before the Court of Civil Judge, Senior Division, Niphad. Dist.Nashik to the Court of Civil Judge, Senior Division, Beed.
3. The respondent and the applicant are husband and wife. The respondent filed petition for divorce bearing H.M.P.No.425 of 2020 in the Court of Civil Judge Senior Division, Niphad, Dist.Nashik. The applicant has filed this application alleging that the applicant is a jobless woman and she has to look after a child of two years.
4. Heard learned counsel for the applicant and learned counsel for the respondent.

5. Learned counsel for the applicant submits that a case bearing H.M.P. No.90 of 2021, under Section 9 of the Hindu Marriage Act, for restitution of conjugal rights is pending in the Court of Civil Judge, Junior Division, Beed. He submits that the applicant is required to attend this proceeding. The applicant is not in a position to attend the Court of Civil Judge, Senior Division, Niphad, Dist.Nashik, which is 250 kms. away from Beed. Applicant is resident of Talewadi, Tq.Gevrai, Dist.Beed. There is no direct connectivity from Talewadi to Niphad. She has to first come to Beed and then take a Bus to Niphad.

6. Learned counsel for the respondent submits that this application is filed just to harass the respondent. He submits that a criminal case under Section 498-A has been registered against the respondent and his relatives. The Division Bench of this Court has quashed the FIR to the extent of some relatives. He submits that to settle the scores with the respondent, this false application has been filed.

7. Admittedly, H.M.P. No.90 of 2021 for restitution of conjugal rights filed against the respondent is pending before the Civil Judge, Junior Division at Beed. Therefore, the applicant is required to attend this proceeding. It is not in dispute that the couple has a child aged two years. The applicant has to look

after the child. It will not be possible for her to leave child of two years and to attend the proceeding at Niphad, Dist.Nashik. Respondent has not brought any extraordinary circumstances on record to show that transfer of proceedings from the Court of Civil Judge, Senior Division, Niphad, Dist.Nashik to the Court of Civil Judge, Senior Division, Beed, would be inconvenient to him.

8. Learned counsel for the respondent submits that respondent is jobless.

9. Considering the totality of the circumstances and the fact that one more proceeding is pending in the Court of Civil Judge, Junior Division at Beed, I deem it appropriate to transfer the proceedings pending before the Court of Civil Judge, Senior Division, Niphad, Dist.Nashik to the Court of Civil Judge, Senior Division, Beed. Hence, the following order is passed :

ORDER

- (i) Application is allowed.
- (ii) H.M.P. No.425 of 2020 pending before the Court of Civil Judge, Senior Division, Niphad, Dist.Nashik is withdrawn and it is transferred to the Court of Civil Judge, Senior Division, Beed, for decision in accordance with law.

**(M.G.SEWLIKAR)
JUDGE**