

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

951 MISC.CIVIL APPLICATION NO.186 OF 2021

**SWATI KIRAN CHAUDHARI (GANDHALE)
VERSUS
KIRAN VASANT CHAUDHARI (GANDHALE)**

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Advocate for Applicants : Mr. A. P. Nahar h/f Mr. Bhandari Anand P.

CORAM : MANGESH S. PATIL, J.

DATE : 14.06.2022.

PER COURT :

Heard.

2. The applicant is the wife of the respondent. He has filed a proceeding for restitution of conjugal rights pending in the Court at Civil Judge Senior Division, Bhusawal. She seeks transfer of that proceeding from to Bhusawal to the Family Court at Dhule.

3. The averments in the application have not been controverted by the respondent since he has been served with a notice for final disposal but still has not appeared.

4. There is nothing for me to disbelieve the contents of the application.

5. Going by the averments in the application, since after the matrimonial dispute has occurred the applicant has been staying at Deopur-Dhule along with a child of the couple aged about 8 years. She has instituted a proceeding under Section 125 of the Code of Criminal Procedure against the respondent-husband in the Court at Dhule. Irrespective of the fact whether the restitution of conjugal rights proceeding is transferred or otherwise, the respondent-husband will have

to come down to Dhule to defend the maintenance proceeding. Considering the fact that the applicant is a woman in custody of minor child, she would face a greater hardship if she is made to defend the restitution of conjugal rights proceeding by commuting between Deopur, Dhule and Bhusawal. No such hardship would be faced by the respondent even if the matter is transferred.

6. Taking into account the persistent stand being taken by the Supreme Court in the catena of judgments, the matter deserves to be transferred.

7. The Application is allowed. Hindu Marriage Petition No. 36/2021 pending on the file of the Civil Judge Senior Division Bhusawal is transferred to the Family Court Dhule.

8. All the Courts taking up different matters between the parties including the matter to be transferred shall see to it that as far as possible all these matters are listed on the same date.

(MANGESH S. PATIL, J.)

mkd/-