

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

989 MISC.CIVIL APPLICATION NO.210 OF 2022

PRATIBHA KIRANKUMAR HIWALE
VERSUS
KIRANKUMAR BABURAO HIWALE

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Ms. Sakshi Kale, Advocate for the applicant.
Mr. Anand Bhise, Advocate for the respondent.

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CORAM : SANDIPKUMAR C. MORE, J.

DATED : 09.12.2022.

ORDER:-

1. Leave to correct prayer clauses (B) and (C) by mentioning "Civil Judge, Senior Division, Jalna" instead of "Ld. Lower Court at Jalna" and also the Family Court, Aurangabad instead of "Ld. Lower Court at Aurangabad".

2. Heard rival submissions. The applicant-wife is seeking transfer of HMP No. 51/2021 filed by respondent for restitution of conjugal rights, from the Court of Civil Judge (Senior Division), Jalna to the Family Court, Aurangabad.

2. Learned Counsel for the respondent strongly opposed the application on the ground that the distance between Jalna and Aurangabad is only of 65 kms. Moreover, the respondent is regularly paying maintenance to applicant

and therefore, it would not be difficult for her to attend the dates at Jalna

3. However, it appears that the applicant – wife has no source of income. Moreover, she is also maintaining two daughters and has already filed three proceedings against the respondent at Aurangabad. One is under the provisions Protection of Women from Domestic Violence Act, another is proceeding under Section 125 of Cr.P.C. Besides, a criminal prosecution under Section 498-A of IPC is also going on at Aurangabad. It is significant to note that the respondent husband has filed criminal application before this Court for quashing the F.I.R. in aforesaid criminal prosecution. Though the respondent husband is paying maintenance to the applicant, but it would be more convenient for him to travel to Aurangabad since he will have to appear in all these proceedings filed by the applicant at Aurangabad. Moreover, as per the recent view of the Hon'ble Apex Court that the multiple proceedings having same set of facts are to be decided by one and the same Court, the matter from Jalna can be conveniently transferred to Aurangabad. Accordingly, following order is passed.

ORDER

- (i) The application is allowed.
- (ii) HMP No. 51/2021 is hereby transferred from the Court of Civil Judge (Senior Division), Jalna to the Family Court at Aurangabad for its disposal according to law.
- (iii) The respondent is directed to appear before the learned Family Court, Aurangabad on or before 16th January 2023.
- (iv) The application is accordingly disposed of.

(SANDIPKUMAR C. MORE, J.)