

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

974 MISC. CIVIL APPLICATION NO.213 OF 2021

KAJAL RADHESHYAM GHODELE
VERSUS
RAHUL AHSOK PRAKASHKAR

...
Advocate for Applicant : Mr. A.S. Kulkarni h/f. Mr. Deshmukh Lalit B.
Advocate for the respondent : Mr. Rakesh N. Jain
...

CORAM : MANGESH S. PATIL, J.

DATE : 22 JULY 2022

PC :

This is an application filed by the wife against the husband under section 24 of the Code of Civil Procedure for transfer of divorce proceeding and proceeding under the Guardians and Wards Act, 1890 initiated by him and pending in the Court at Nandurabar to a Court at Aurangabad.

2. I have heard learned advocates of both sides.

3. Learned advocate for the applicant submits that the applicant being a woman, it is difficult for her to defend the proceeding by commuting between Aurangabad where her parental home is and Nandurbar which are more than 300 km apart. She has couple of children to maintain. She has already initiated a proceeding for maintenance which is pending in the Family Court at Aurangabad under section 125 of the Code of Criminal Procedure. Even she has initiated proceeding under the provisions of the Protection of Women

from Domestic Violence Act, 2005 also at Aurangabad. Even she has lodged FIR for the offence punishable under section 494 of the Indian Penal Code at Aurangabad.

4. The respondent has to come down to Aurangabad to defend all these proceedings. Even if the matters are now transferred from Nandurbar to Aurangabad, he will not face any additional hardship but the hardship being faced by the applicant can be avoided if the matters are brought here at Aurangabad.

5. Learned advocate for the respondent - husband strongly opposes the request. He submits that the applicant has not been residing in Aurangabad. She is residing in Pune. He also adverts my attention to a Police report wherein it has been mentioned that she has been staying in Pune. He also submits that the children are both deaf and dumb. They are not being kept in proper custody. They have been brought up in a pathetic condition. The applicant has moved this application to harass the respondent.

6. I have perused the papers.

7. There is no dispute about the distance between Nandurbar and Aurangabad, regarding various matters instituted by both the sides against each other and also the fact that the children are in the applicant's custody.

8. It is true that the Police report being relied upon by the respondent reads that she has been residing in Pune. However, the fact remains that all the matters instituted by her are pending at Aurangabad. Assuming for the sake of arguments that she has been in some employment at Pune, she will have to come down to Aurangabad to prosecute her matters. Expecting her, in such case scenario, even to go to Nandurbar to defend the divorce proceeding and the proceeding under the Guardians and Wards Act, 1890 would be asking for too much. As it is, even according to the respondent, she must be coming from Pune to Aurangabad to prosecute her matters and in addition she will have to go to Nandurbar to defend the proceedings initiated by him.

9. Instead, the hardship that is being caused to the applicant can be avoided if the matters are transferred from Nandurbar to Aurangabad. As it is, he must be coming down to Aurangabad and will have to continue to come down till the matters are over. He can prosecute his own matters also at Aurangabad. The possible hardship to him can certainly be avoided by requesting all the Courts taking up the matters between the parties at Aurangabad, to list all the matters on the same day.

10. The application is allowed.

11. Proceeding bearing H.M.P. No. 65/2019 pending before the Court of Civil Judge Senior Division at Nandurbar is transferred to Family Court, Aurangabad and Civil Misc. Application No. 5/2021

pending before the Court of Principal District and Sessions Judge, Nandurbar is transferred to District Court, Aurangabad for decision in accordance with law.

12. The parties shall appear before the Family Court, Aurangabad and District Court, Aurangabad on 20 August 2022 and there shall be no need to issue notices to them.

13. The Courts taking up all the proceedings of the couple at Aurangabad, shall as far as possible, list all the proceedings on the same day.

[MANGESH S. PATIL]
JUDGE

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