

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

MISC.CIVIL APPLICATION NO.173 OF 2019

**ASHWINI ALIAS NEHA NANDAKISHOR KULKARNI
VERSUS
NANDKISHOR HANUMANTRAO KULKARNI**

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Advocate for Applicants : Mr. S. R. Sirsath h/f. Mr. Vishant P. Kadam
Advocate for Respondent : Mr. M. D. Narwadkar

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CORAM : MANGESH S. PATIL, J.

DATED : 04 JULY 2022

PER COURT :

1. The applicant is wife of respondent and seeking transfer of a divorce proceeding instituted by him and pending on the file of Family Court at Aurangabad to the Court at Parbhani.
2. I have heard learned advocates of both sides.
3. It has been specifically averred in the application that the applicant is homemaker, staying at her parental home at Parbhani. She has no source of income. The distance between two places is more than 200 kms. It is difficult for her to commute between the two places to defend the divorce proceeding which is causing hardship. It is also averred that in spite of the order awarding her maintenance and the respondent is a Lecturer in senior

college and also runs consultancy firm and earning more than Rs.80,000/- per month, he has not been regularly paying the maintenance. The averments in the application have not been controverted.

4. Though there is a decision of the Supreme Court in the matter of **Anindita Das Vs. Srijit Das; 2006 9 SCC 197**, based on the peculiar facts and circumstances of the case, refusing to transfer the matter and instead directing the husband to bear expenses for travel of the wife and one companion to defend the proceeding at Delhi, there are catena of judgments rendered in the peculiar facts and circumstances by the Supreme Court in peculiar set of facts, referred to in the order dated 9 September 2019 in the present matter.

5. Be that as it may, the matter has to be decided on its own peculiar facts and circumstances.

6. Apart from the fact that the respondent has not controverted the grounds in the application, it would not require any deliberation to conclude that the applicant would face greater hardship if she is made to commute between Aurangabad and Parbhani to defend the divorce proceeding, that would be faced by the respondent in case the matter is transferred.

7. It is not that she is financially sound to bear the expenses. Even he has not been regularly paying the maintenance though the order has reached finality.

8. Since there is no other sufficient, cogent and sound reason not to consider the request of the applicant, the application is allowed as prayed for.
9. The proceeding bearing Hindu Marriage Petition No.A-285 of 2019, pending in the Family Court at Aurangabad is transferred to the Family Court at Parbhani.
10. All the courts taking up different matters between the parties at Parbhani shall, as far as possible, list all the matters on the same date.
11. Parties shall appear before the Family Court at Parbhani on 30.07.2022.

(MANGESH S. PATIL, J.)

Tandale/-