

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

965 MISC.CIVIL APPLICATION NO.240 OF 2021

ANUPRITA GHANSHYAM CHAVHAN ALIAS ANUPRITA ASHOK
AHIRE
VERSUS
GHANSHYAM MAGAN CHAVHAN

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Advocate for Applicant : Mr. Deshpande Shantanu A.

Advocate for Respondent : Mr. A. D.Sonar

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CORAM : SANDIPKUMAR C. MORE, J.

DATED : 24/11/2022.

P. C. :

1. Heard rival submissions.
2. The applicant is seeking transfer of marriage petition A No. 64 of 2020 filed by the respondent for getting divorce from the Family Court Dhule to Family Court Nashik.
3. The learned counsel for the applicant submits that the applicant had filed DV proceedings against the respondent at Nashik, wherein maintenance of Rs.10,000/- per month has been awarded to the applicant wife. He further submitted that the applicant had also filed petition in the Family Court, Nashik for getting maintenance under Section 125 of Cr.P.C. wherein the court has granted maintenance of Rs.10,000/- per month. However, due to some technical aspect the said order has been challenged by the applicant before this court at Principal Seat Bombay. He pointed out that two execution proceedings are already going on at Nashik lodged by the applicant against the respondent in respect of

recovery of the arrears of maintenance. Further, recently the applicant has filed petition under Section 18 of the Hindu Maintenance and Adoption Act, 1956 before Family Court Nashik. According to him the respondent is Senior Professor and has already appeared in the proceedings at Nashik.

5. On the contrary, the respondent has resisted the petition by filing affidavit in reply on the ground that the applicant herself abandoned his company without any reason and she is in habit of lodging false complaint against him. The learned counsel for the respondent also submits that the respondent is paying the maintenance amount regularly and till date has paid amount of maintenance around Rs.4 lacs. He also pointed out that the respondent husband is suffering from Acute Exacerbation of Chronic Ulcerative Colitis and therefore, unable to attend the dates of the proceeding at Nashik.

6. It is significant to note that the applicant is residing with minor son at Nashik and she is not having any independent source of income. Moreover, admittedly, certain maintenance amount has been granted to the applicant and her son by the concerned Magistrate as well as Family Court Nashik and the recovery of the same is going on. Though there is dispute about the exact amount of arrears amount of maintenance but the respondent is certainly in the arrears of maintenance amount. The respondent is a Senior Professor and therefore, it can easily be inferred that he must getting handsome salary. Though there are certain documents on record produced by the respondent indicating that he is suffering from Acute Exacerbation of Chronic Ulcerative Colitis, but it cannot be inferred that despite having such disease he is totally enable to

move out. It is already settled that in transfer cases a comparative hardship is to be seen. Under such circumstances, when the respondent is in arrears of payment of maintenance and the applicant has filed recovery proceeding to that effect, it would be difficult for the applicant to attend the dates at proceeding at Dhule. On the contrary, considering the sound financial position of the respondent he can conveniently attend the date if the proceeding at Dhule is transferred to Nashik. In view of the same, following order is passed:

ORDER

- a) Application is hereby allowed.
- b) The Marriage Petition No.A64 of 2020, pending in Family Court Dhule is hereby transferred to Family Court, Nashik for disposal according to law.
- c) The respondent is directed to appear before Family Court Nashik on or before, 19/12/2022.
- d) The Family Court, Nashik is directed to dispose the aforesaid marriage petition as and when transferred, as early as possible and the applicant shall not take unnecessary adjournments.
- e) Application is accordingly disposed of.

(SANDIPKUMAR C. MORE, J.)