

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

MISC. CIVIL APPLICATION NO. 128 OF 2014

Sau. Bharati w/o Amol Khillare

...Applicant

Versus

Amol s/o Sudam Khillare

...Respondent

.....

Mr. Sayyed Tauseef Yaseen, Advocate for the applicant

Mr. G. G. Kadam, Advocate for the respondent

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CORAM : PRITHVIRAJ K. CHAVAN, J.

RESERVED ON : MARCH 7TH, 2022

PRONOUNCED ON : MARCH 10TH, 2022

PER COURT : -

1. This is an application under Section 24 of the Code of Civil Procedure by the applicant/wife, who is residing at Aurangabad, to transfer HMP Petition No. A-285/2014 filed by the respondent-husband under Section 13(1)(i) of the Hindu Marriage Act, 1955 from the Family Court, Nanded to the Family Court, Aurangabad.

2. Shorn of unnecessary details, the relevant facts can be summarized thus : -

Marriage of the applicant and respondent was solemnized on 24.04.2011 at Aurangabad. After the marriage, the applicant

went to cohabit with the respondent. It is the contention of the applicant that she delivered a male child on 27.11.2013. The main grounds urged by the applicant seeking transfer of the HMP filed by the respondent from Nanded to Aurangabad, are that the relations between the couple are so strained that she finds it difficult to cohabit with the respondent. She was subjected to cruelty on petty grounds and was driven out of the matrimonial house by the respondent. Since then she has been residing with her parents at her natal house. Despite many requests to the respondent to allow her to cohabit with him, it fell on deaf ears. It is further contended by the applicant that without any rhyme or reason, the Divorce Petition has been filed by the respondent against her on 03.04.2014, in the Family Court at Nanded. It is further submitted that despite attending the Courts on 22.05.2014 and 07.06.2014, no progress was made. Rather, the Presiding Officer was absent on 07.06.2014 and, therefore, the matter was adjourned till 04.07.2014. The applicant contends that despite attending the Family Court at Nanded, the case had been simply adjourned. She finds it difficult to travel all the way from Aurangabad to Nanded, which is about 250 kms. It is also difficult for the applicant to carry her child all the way from Aurangabad to Nanded on each date, as she cannot leave him alone at Aurangabad.

3. For the reasons stated above, the applicant seeks transfer of the petition from the Family Court at Nanded to the Family Court at Aurangabad.

4. I have heard the learned Counsel for the applicant as well as the learned Counsel for the respondent.

5. The learned Counsel for the respondent strongly opposed the application of the applicant mainly on the ground that this application was earlier dismissed and restored which indicates that the applicant is not interested in getting the Divorce Petition transferred from Nanded. Secondly, it is the contention of the Counsel that the report sent by the Judge of the Family Court to the Registry of this Court dated 18.02.2021 is self-explanatory. The said report sent by Judge of the Family Court, Nanded reveals that the respondent (applicant herein) is not interested in pursuing either the present application or the petition for divorce filed by her husband at Nanded. The report further reveals that the respondent-husband has been earnestly requesting the Family Court to decide his petition at the earliest, as it was filed way back in 2014.

6. It is needless to go into the merits of the application as well as the allegations and counter allegations levelled by the parties.

7. At this stage, it is apparent from the record as well as from the communication made by the learned Judge, Family Court, Nanded that the applicant herein is neither interested in attending the petition for divorce at Nanded nor the present application, which was filed way back in the year 2014. It's a matter of common knowledge that there are frequent trains as well as buses available from Aurangabad to Nanded. The reasons assigned by the applicant are wholly unsatisfactory and not convincing.

8. The learned Counsel for the respondent has submitted that the petition for divorce is on the verge of conclusion and, therefore, there would be no point in transferring the same from Nanded to Aurangabad, as it would be concluded within a short period.

9. It is informed to this Court that the next date of recording further evidence of the respondent-husband is 17.03.2022. The applicant may attend the dates before the Family Court at Nanded.

10. At this stage, I do not see any reason to allow the application, which is devoid of substance and as such it stands dismissed.

[PRITHVIRAJ K. CHAVAN]
JUDGE

SG Punde