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

MISC. CIVIL APPLICATION NO.273 OF 2021

DINESH SUBHASH KASAR
VERSUS
MONIKA DINESH KASAR

...
Mr S. S. Khoche, Advocate h/f Mr D. P. Palodkar, Advocate for
applicant

CORAM : SMT. BHARATI DANGRE, J.

DATE : 22nd February, 2022

PER COURT:

1. Heard the learned Counsel for the applicant and perused the reply forwarded to this Court by the respondent wife on 10/01/2022.
2. With the assistance of the learned Counsel for the applicant, I have perused the copy of the application along with it's annexures.
3. The marriage between the applicant and the respondent is solemnized in the year 2002 and out of the said wedlock, two children are born. The elder son being 16 years as on date, whereas the daughter is aged 11. The daughter, who is a minor, is deaf and dumb since birth and the applicant has placed on record the documents reflecting the treatment administered to her when she was diagnosed with Bilateral mild sensorineural hearing loss. She underwent a cochlear implant surgery and required to

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undergo mapping as well as speech therapy at regular interval and this is being undertaken at a clinic in Aurangabad. A certificate to that effect dated 14/09/2021 is placed on record. Both the children are residing with the applicant in Aurangabad.

4. The applicant has instituted H.M.P. No.76/2017 for restitution of conjugal rights before the learned Civil Judge Senior Division, Aurangabad and the said claim of restitution, though granted on 01/09/2018, the respondent wife has chosen not to adhere to the said decree of restitution of conjugal rights. On the contrary, she filed Petition No.A-933/2020, before the Family Court at Amravati, seeking dissolution of the marriage. It is this proceedings, which are sought to be transferred by the husband to Aurangabad in view of the difficulty expressed by him, that he has to take care of the two children and particularly, the daughter who has to be offered necessary treatment at regular interval. Apart from this, his old parents are also staying with him, which make it further difficult him to travel to Amravati to attend the proceedings.

5. The learned Counsel has invited my attention to the order passed by this Court in Misc. Civil Application No.110/2017 on an application by the wife, seeking transfer of the proceedings filed by the husband for restitution of conjugal rights in the Court of learned Civil Judge Senior Division, Aurangabad to the Family Court at Amravati. This application came to be disposed of when the husband has volunteered that he shall pay the necessary expenses of travelling to the wife to attend the proceedings at

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Aurangabad. The order passed on 28/11/2017 is placed at Exh.B of the application.

6. When the reply is forwarded by the respondent to this Court is perused, she is only claiming the ground of inconvenience to her being a woman and stating that it would be more convenient to continue the proceedings in Amravati by considering her security, financial ability and the application is sought to be dismissed.

7. On hearing the learned Counsel for the applicant and on perusal of response forwarded by the wife on 10/01/2022, I am inclined to allow the application by transferring the proceedings from the Family Court at Amravati to the learned Civil Judge Senior Division, Aurangabad, subject to the statement made by the learned Counsel for the applicant to the effect that he shall deposit expenses of travelling for the wife for undertaking journey from Amravati to Aurangabad, which are quantified Rs.4,000/-. This amount shall take care of travelling expenses as well as the lodging, boarding and miscellaneous expenses.

8. The aforesaid expenses shall be deposited in this Court of learned Civil Judge Senior Division, Aurangabad in advance, so that the same can be tendered to the respondent wife. Whenever the wife attend the proceedings, the learned Civil Judge Senior Division, Aurangabad, is directed to direct the presence of respondent wife only when it is necessary for recording her evidence or for cross-examination and on other dates, she may be

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permitted to appear through her Counsel and her personal presence shall be exempted.

9. With the aforesaid directions, the Misc. Civil Application is allowed. Necessarily Petition No.A-933/2020, filed by the respondent wife in Family Court, Amravati, shall stand transferred to the learned Civil Judge Senior Division, Aurangabad, forthwith.

(SMT. BHARATI DANGRE, J.)

sjk