

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

951 MISC.CIVIL APPLICATION NO.301 OF 2021

**DIPALI DIPAK NARWADE
VERSUS
DIPAK GOKUL NARWADE**

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Advocate for Applicant : Mr.Ukey A. B. and Mr.Sandanshiv M. B.

Advocate for Respondent : Mr.Dheple Shantaram R.

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CORAM : SANDIPKUMAR C. MORE, J.

DATE : 02.12.2022.

PER COURT :

1. The learned counsel for the applicant undertakes to delete prayer Clause (A). Such deletion be carried out forthwith.
2. Heard rival submissions.
3. The applicant is seeking transfer of HMP petition No. 383 of 2021 filed by the respondent husband for getting divorce, from the Court of C.J.S.D., Aurangabad to the Court of C.J.S.D., Daryapur, Dist. Amrawati.
4. The learned counsel for the applicant submits that the applicant is not having any source of income. Moreover, the distance between Aurangabad and Daryapur is more than 300 k.m. The

applicant has also filed petition for restitution of conjugal rights in the Court of C.J.S.D., Daryapur, wherein the respondent is yet to appear. Further, one proceeding under the provisions of PWDV Act is also going on in the Court of J.M.F.C., Anjangaon Surji.

5. On the contrary, the learned counsel for the respondent strongly opposed the submissions by relying on the reply of the respondent, wherein, it is stated that the applicant has already filed an application seeking travelling charges for attending the proceedings at Aurangabad and it is pending for order. It is also contended by the respondent that the applicant would not be required to attend each and every date at Aurangabad. He relied on the order of this Court dated 13.10.2022, wherein it is observed that the wife can seek the traveling expenses as mentioned in the reply of the respondent. However, facts of the case wherein the aforesaid order is passed are different and cannot be made applicable. In the second order dated 27.01.2014 of this Court relied upon by the respondent, certain amount was directed to be paid to the applicant by the husband for attending the dates. However, recently the Hon'ble Apex Court has taken a view that convenience of a wife in transfer cases is to be seen first. In the instant matter, it would be rather harsh to ask the applicant wife to travel to Aurangabad which is more 300 k.m. away from Daryapur. In view of the same following

order is passed :

ORDER

- i) The application is allowed.
- ii) The HMP No. 383 of 2021 is hereby transferred from the Court of C.J.S.D., Aurangabad to the Court of C.J.S.D., Daryapur for disposal according to law.
- iii) The respondent is directed to appear before the C.J.S.D. Daryapur on or before 02.01.2023.

**(SANDIPKUMAR C. MORE)
JUDGE**

mahajansb/