

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

MISC. CIVIL APPLICATION NO. 131 OF 2022

Shital w/o. Kapil Tambe @ Shital
d/o. Dilip Gangurde

.....Applicant

Vs.

Kapil S/O. Balkrushna Tambe

....Respondent

Ms. Rashmi Bhandarkar h/f. Mr. Vilas Bamburde a/w. Mr. Rajendra
Tajane, **Advocate for the applicant.**

Mr. Ajinkya Udane, **Advocate for the respondent.**

CORAM: SANDEEP K. SHINDE, J.

THURSDAY, 8TH SEPTEMBER, 2022.

P.C.

1. This application under Section 24 of the Civil Procedure Code, seeks to transfer the proceedings in Petition No.A-2018/2021 from Family Court-5, Pune to Family Court at Nasik. The applicant is wife. Non-applicant is her husband. The petition of which transfer is sought was instituted by the non-applicant for dissolution of marriage instituted in September, 2021 at Pune. It appears, the applicant residing at Nashik has filed three proceedings against the non-applicant on 21st October, 2021. One is, under Section 9 of the Hindu Marriage Act, second under Section 125 of the Criminal

Procedure Code and third under Section 12 of the Domestic Violence Act. It is argued on behalf of the applicant that though she is Engineer, she is unemployed and has no independent source of income and therefore she cannot afford to travel from Nashik to Pune. Mr. Udane, learned Counsel appearing for the non-applicant, on instructions submits that, non-applicant is willing to pay reasonable travelling expenses to the applicant, which may be in the range of Rs.2,000/- per visit.

2. Although, the non-applicant is willing to pay the travelling expenses, fact cannot be overlooked, that three proceedings filed by applicant at Nashik, which the non-applicant may have to attend and contest. Therefore, it would be a matter of convenience, if the petition filed by the non-applicant in the Family Court at Pune is transferred to the Family Court at Nashik and tried alongwith the petition filed by the applicant under Section 9 of the Hindu Marriage Act. Also, the proceedings between the parties under Section 125 of the Criminal Procedure Code are pending before the Family Court at Nashik. Thus, trying at least, three proceedings between the parties in Family Court, at Nashik, would definitely eliminate possible inconsistent findings, in as much as in all three cases, assertion of facts are not only uncommon, but reliefs sought are also overlapping. For all these reasons, the application is allowed.

3. In so far as proceedings under the Domestic Violence Act are concerned, applicant-wife shall request the concerned Court to list the Domestic Violence Application for hearing, as far as possible, on the same date on which other three proceedings, would be listed, before the Family Court, for which, the applicant shall move appropriate application alongwith copy of this order. Thus, the following order :

ORDER

- (i). The application is allowed.
 - (ii). The proceedings in Petition No.A-2018/2021 pending before the Family Court-5, Pune are transferred to the Principal Judge, Family Court-II, Nashik, transfer proceedings Petition No.A-650/2021 and Petition No.E-179/2021, wherein all shall be heard by one Court together.
5. All concerned to act on authenticated copy of this order.

(SANDEEP K. SHINDE, J.)