

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

MISCELLANEOUS CIVIL APPLICATION NO. 303 OF 2022

Mrs. Shaheda Bashir Ahmed Kotwal	Applicant
Versus	
Mr. Bashir Ahmed Allisaheb Kotwal	Respondent

Mr. Abhishek R. Avachant along with Mr. S. H. Deshpande,
Advocate for the Petitioner.
None for the Respondent.

CORAM : S. G. DIGE, J.

DATE : 19th DECEMBER, 2022.

P.C. :

1. Heard learned counsel for the applicant.

2. Learned counsel for the applicant submits that the respondent has filed a petition for restitution of conjugal rights i.e. PA No.129 of 2022 at Family Court at Solapur. The said petition is pending before the Family Court at Solapur. The distance between Panvel to Solapur is almost 370 kms. It would not be possible for the applicant to travel to Solapur leaving her minor children at Panvel and attend the dates of the said proceedings. The said travel would lead to extreme hardship. Moreover, it would be difficult for the applicant to effectively defend the said case. Hence,

requested to transfer the proceedings pending at Family Court, Solapur to Civil Judge Senior Division, Panvel.

3. I have heard learned counsel for the applicant. Though respondent is served, none present for the respondent. On last date, this Court had given last chance to the respondent to go on with the matter. Today also, none present for the respondent. Hence, I am deciding this matter on merit.

4. Admittedly, the applicant is residing at Panvel with her two minor children aged 11 years and 8 years respectively. The respondent has filed a petition for restitution of conjugal rights before the Family Court at Solapur. The said petition is pending before the Family Court at Solapur. While transferring the petition, this Court has to see the hardship caused to the applicant. In the case of **Lalita A. Ranga versus Ajay Champal Ranga AIR 2000 SC 3406**

,the Hon'ble Apex Court has observed as under :

"Hence, having heard learned Counsel for the Applicant/Petitioner and in the facts and circumstances of this case we deem it fit to grant this Transfer Petition looking to the difficulties faced by the Applicant/Petitioner-wife to contest these proceedings at Bombay when she is stationed at Jaipur. She is having a small child also with her. Therefore, it is obvious that it will be difficult for her to go all the way from

Jaipur to Bombay to contest the proceedings from time to time."

5. The observations of the Hon'ble Apex Court are applicable to the present case squarely. The applicant stays with her two minor children at Panvel and the proceedings filed by the respondent is pending at Solapur. The distance between Panvel to Solapur is around 370 kms. It would cause hardship to the applicant.

6. In view of the above, I pass the following order:

1. The application is allowed.
2. The proceedings of marriage petition (PA No.129 of 2022) pending on the file of Principal Family Court Judge, Solapur be transferred to Civil Judge Senior Division, Panvel, District - Raigad for disposal in accordance with law.

7. The miscellaneous civil application stands disposed of.

(S. G. DIGE, J.)