

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
MISC. CIVIL APPLICATION NO. 352 OF 2022**

Anuja Deepak Gawali ...Applicant

V/s.

Deepak Baban GawaliRespondent

**ALONGWITH
MISC. CIVIL APPLICATION (ST.) NO. 10937 OF 2022**

Mr. Deepak Baban Gawali ...Applicant

V/s.

Mrs. Anuja Deepak Gawali alias

Anuja Vitthal ShelkeRespondent

Mr. Subodh D. Bhutala, Advocate for the applicant in
MCA-352-2022.

Mr. Pranav H. Bhoite, Advocate for the applicant in MCA
(St.) No. 10937-2022.

Mr. P.B. Gujar, Advocate for respondent no.1 in MCA-
352/2022.

September 26, 2022.

CORAM : SANDEEP K. SHINDE, J.**MONDAY, 26TH SEPTEMBER, 2022.****P.C. :**

1. Both these applications are filed under Section 24 of the Civil Procedure Code. Misc. Civil Application No. 352/2022 is filed by the Wife seeking transfer of Marriage Petition No. 1043/2020 from the Court of Civil Judge Senior Division, Pune to Family Court, Pune; whereas the Misc. Civil Application (St.) No. 10937/2022 is filed by the husband seeking transfer of Petition No. A-905/2021 filed by the Wife from the Family Court to Civil Judge Senior Division, Pune. Both husband and wife are seeking Decree of Dissolution of Marriage. Admittedly, the Court of Civil Judge Senior Division and the Family Court are housed in one building/campus.

2. Mr. Bhutala, learned Counsel for the applicant-wife submitted that, in terms of Section 7 of the Family Courts Act, The Family Court has exclusive jurisdiction to try the suit or proceedings between the parties to a marriage and therefore the petition filed by the husband in the Civil Court be transferred to the Family Court. On the other hand, learned Counsel appearing for the

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husband, submitted, though Mr. Bhutala, may be right, however, the fact remains, the Decree passed by the Civil Judge Senior Division is appealable in Regular Civil Appeal, before the District Court at Pune; whereas the judgment and Decree of the Family Court is appealable, before the High Court. Moreover since, husband and wife, are residing at Pune and both find, it convenient, let the Civil Court decide the petitions together.

3. Thus, the following order :

ORDER

(i) Petition No.A-905/2021 pending before the Family Court, Pune is directed to to be transferred to the Court of Civil Judge Senior Division, Pune.

(ii) The learned Civil Judge Senior Division, Pune shall hear both the petitions i.e. Marriage Petition No.1043/2020 and Petition No. A-905/2021, together.

(iii) The learned Civil Judge Senior Division, Pune shall decide the application moved by

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the Wife for maintenance pending petition, expeditiously, preferably within three months in accordance with law, from the date of receipt of proceedings.

(iv) The Registrar, Family Court, Pune shall ensure that Petition No. A-905/2021 is transferred to the Court of Civil Judge Senior Division within four weeks from the receipt of this order.

(v) The learned Civil Judge Senior Division, Pune to decide the Marriage Petition No.1043/2020 and Petition No. A-905/2021, expeditiously.

4. Both the applications are disposed of in the aforesaid terms.

5. All to act on authenticated copy of this order.

NEETA
SHAILESH
SAWANT

Digitally signed
by NEETA
SHAILESH
SAWANT
Date: 2022.09.27
17:37:06 +0530

(SANDEEP K. SHINDE, J.)