

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

MISC. CIVIL APPLICATION NO.235 OF 2021

Mrs. Pooja Anup Aaseri	 Applicant
Vs.	
Anup Gabbuprasad Aaseri	Respondent

Mr. Darpan Jain h/for Mr. Rakesh Agrawal for the Applicant.

CORAM: SANDEEP K. SHINDE, J.

DATED : SEPTEMBER 13, 2022

P.C.

1. It is an application under Section 24 of the Code of Civil Procedure, 1908 seeking transfer of the proceedings in Petition No.37 of 2021 from the Family Court, Ahmednagar to Family Court at Mumbai.

2. Applicant is wife of the non-applicant.

3. Heard learned counsel for the applicant. None appears for the Respondent although duly served.

4. In the proceedings filed by the applicant-wife under the Domestic Violence Act, 2005, the Court of Metropolitan Magistrate, Mumbai had issued a distress warrant against the

non-applicant to recover the arrears of maintenance. Against which non-applicant has filed an appeal in the Court of Sessions at Mumbai. That appeal is pending for consideration. Whereafter, non-applicant filed petition in the Family Court, at Ahmednagar under Section 9 of the Hindu Marriage Act, 1955 for the restitution of conjugal rights.

5. Applicant is residing at Mumbai with minor son. She is home-maker, having no independent source of income. Her son is 6 and half year old.

6. Although non-applicant has been duly served, he chose not to contest the transfer application either by filing reply or otherwise. Thus, I am left with no choice but to proceed ex-parte against him.

7. Distance between Mumbai and Ahmednagar is about 260 kilometers. Applicant is home-maker. She has no independent source of income. She is depending on other family members. Admittedly, non-applicant has filed an appeal in the Court of Sessions at Mumbai against the order passed by the learned Metropolitan Magistrate in the proceedings under the

Domestic Violence Act, 2005 filed by the applicant.

8. In consideration of the facts stated above, a case is made out to direct transfer of the proceedings in Petition No.37 of 2021 filed by the non-applicant in the Family Court at Ahmednagar to the Family Court at Mumbai.

9. For all these reasons, application is allowed. Thus, following order:

- (i) Proceedings in Petition No.37 of 2021 filed by the non-applicant in the Family Court at Ahmednagar are transferred to the Family Court at Bandra, Mumbai.
- (ii) All to act on an authenticated copy of this order.
- (iii) Applicant shall communicate this order to the non-applicant by registered notice/letter.

10. Application is allowed and disposed of.

(SANDEEP K. SHINDE J.)