

BDP-SPS-TAC

BHARAT
DASHARATH
PANDIT

Digitally signed
by BHARAT
DASHARATH
PANDIT
Date: 2022.04.13
19:33:21 +0530

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
MISC. CIVIL APPLICATION NO. 111 OF 2022**

Mrs. Swati Jitendra Sankpal and Anr. Applicants.

V/s

Jitendra Gajjaba Sankpal Respondent.

Mr Ajit J. Kengale for the Applicants.

Mr. Ashutosh Kaushik a/w Sarvesh Khopkar for the Respondents.

CORAM: NITIN W. SAMBRE, J.

DATE: APRIL 12, 2022

P.C.:-

1] Transfer of Divorce Petition No.A-726 of 2020 is sought from the file of Family Court, Bandra to the Court of Civil Judge, Senior Division, Satara on the ground of hardship.

2] Parties hereto got married on 12th May 2004 and blessed with a son who is aged about 16 years and who is in the custody of Applicant-wife. Prayer of Applicant-wife for grant of maintenance was allowed and the arrears are cleared during the course of hearing of this Application today by handing over Demand Draft of Rs 80,000/- to the Applicant.

3] In the aforesaid background, it is claimed that considering hardship which Applicant will suffer as she will be required to travel

overnight to attend proceedings at Mumbai and she being custodian of a son, Application needs to be allowed.

4] Prayer is opposed on the ground that actual travel expenses and out of pocket expenses can be reimbursed by deposit of particular amount in the Family Court Bandra. It is further claimed that non-applicant is not keeping good health and as such it is difficult for him to travel and attend proceedings.

5] Considered submissions.

6] The very conduct of the non-applicant of committing default in payment of maintenance is required to be taken note of. It is only after filing of the present Application alongwith reply which is tendered in Court today, amount of Rs 80,000/- is paid towards arrears of maintenance. This speaks of very intention and mind of the non-applicant as to the payment of maintenance amount which is ordered by the Court below. As far as health condition of the non-applicant is concerned, reliance is placed on medical certificate of 2016. The said document is very stale. Apart from above, non-applicant himself has claimed that he is into business. That being so, it cannot be accepted that ill-health of non-applicant should prompt this Court to reject the prayer of the Applicant-wife for transfer.

7] Apart from above, rightly so pointed out, Applicant so as to attend the proceedings will be required to undertake overnight

journey and travel time by public transport is more than eight hours one way. Non-applicant is not committing on the issue of deposit of particular amount towards travel and out of pocket expenses. In that view of the matter, ground of hardship has to be weighed in favour of the Applicant-wife. That being so, Application is allowed in terms of prayer clause (a). Accordingly, Divorce Petition No. A-726 of 2020 filed by the non-applicant/husband is directed to be transferred to the Court of Civil Judge, Senior Division, Satara.

8] Application is disposed of.

(NITIN W. SAMBRE, J.)