

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

1002 MISC.CIVIL APPLICATION NO.15 OF 2023

**BHAGYASHREE KAPIL PATIL ALIAS BHAGYASHREE
VISHWAMBHARRAO MANGNALE
VERSUS
KAPIL TUKARAM PATIL**

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Mr. K.M. Nagarkar, Advocate for the applicant.
Mr. Vishal Bagdiya, Advocate for the respondent.

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CORAM : SANDIPKUMAR C. MORE, J.

DATED : 20th April 2023.

ORDER:-

1. Heard rival submissions.
2. The applicant – wife is seeking transfer of Petition A-315/2022 filed by respondent- husband for getting divorce, from the learned Family Court, Aurangabad to the Court of Court o Family Court Nanded.
3. According to the applicant-wife, she is residing at Nanded and has also filed two proceedings against the respondent; one under Section 498-A of IPC and other one under the provisions of PWDV Act. According to her, the respondent husband is avoiding to appear in the proceedings at Nanded.
4. On the contrary, learned counsel for the respondent-husband strongly opposed the application by filing affidavit in

reply of the respondent husband on the ground that the applicant – wife has suppressed material facts from this Court. According to him, the applicant-wife is doing job at Pune in private institution / company. Even the bailiff report in respect of service upon her at the address of Nanded in the petition pending in the Family Court, Aurangabad clearly indicates that the applicant is residing at Pune. As such, he submitted that the applicant has played fraud upon Court by stating that she is still residing at Nanded.

5. It is significant to note that as per order dated 17th March 2023, the learned Counsel for the applicant had sought time to take instructions regarding the current address and working place of the applicant. Today the learned Counsel for the respondent-husband placed on record copy of bailiff report in Petition A.No. 315 of 2022 pending in Family Court, Aurangabad in respect of the service upon the applicant. The said report indicates that when the bailiff of the concerned District Court had gone to serve notice upon applicant, her brother and father in clear terms stated to him that the respondent was not residing with them and in fact residing somewhere in Pune. These contents of the report also find place in the affidavit-in-reply. The learned Counsel for the applicant-wife submits that the applicant still resides at

Nanded and doing work from home. However, at times she attends her office at Pune. Be that as it may, but the applicant has definitely suppressed the fact that she is working at Pune. As such, being a working woman she must be having habit of travelling of long distances and therefore, it would be easier for her to attend the dates at Aurangabad from Pune instead of attending the dates from Pune to Nanded. It is settled position that fraud vitiates everything and there are certain judgments from the Hon'ble Apex Court that a party can be thrown out at any stage of proceeding if it is revealed that any fraud is committed by the said party.

6. Admittedly, the two proceedings filed by the applicant-wife at Nanded against the respondent wherein allegedly he is avoiding to appear. However, if he does not appear in those proceedings, then he only would suffer and face the consequences thereof. At this juncture, considering the conduct of the applicant-wife of suppressing the fact of her working at Pune, I am not inclined to grant any relief as claimed by the applicant. As such, the application stands rejected.

(SANDIPKUMAR C. MORE, J.)