

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

953 MISC. CIVIL APPLICATION NO.22 OF 2023

SWATI BALASAHEB JADHAV

VERSUS

BALASAHEB BHAURAO JADHAV

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Advocate for Applicant : Ms. Deshpande Priyanka R.

Advocate for Respondent : Mr. Akshay D. Kulkarni

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CORAM : SHAILESH P. BRAHME, J.

DATE : 29th NOVEMBER, 2023

PER COURT :

1. Heard Learned counsel for both the sides finally at the admission stage.
2. This is an application under Section 24 of Code of Civil Procedure, filed by wife against her husband to transfer the proceedings of dissolution of marriage bearing HMP No. 81 of 2018 from Court of Civil Judge Senior Division, Nilanga, District Latur, to Competent Court at Pune.
3. The marriage of the parties was solemnized at Alandi Devachi, Taluka Rajgurunagar (Khed), District. Pune, on 15.05.2015. There is no issue out of the wedlock. There is matrimonial discord and they are living separate. The applicant resides at Pune with her parents

and the respondent resides at Nilanga. There is distance of about 318 km in between Nilanga and Pune. The applicant has lodged complaint against the respondent on 22.01.2020, bearing FIR No. 0038 in the Police Station at Pimpri Chinchwad, Pune, for offence under Section 498-A, 504, 506 and 34 of IPC, and under Section 66 (c) and 67 of the Information Technology Act.

4. The respondent has filed HMP No. 81 of 2018, for dissolution of marriage under Section 13 (1) (a) of the Hindu Marriage Act, before Civil Judge Senior Division, Nilanga. Applicant appeared in the proceedings.

5. The grievance of the applicant is that she is facing great hardship and inconvenience in attending the matter at Nilanga by travelling from Pune. Her parents are stated to be senior citizens and unable to accompany her. She has to seek company of her younger brother. It is contended that she is unable to defend effectively. Learned counsel for the applicant has relied upon the decision rendered by Supreme Court in the matter of *Sumita Singh Versus Kumar Sanjay and another*, **AIR 2002 Supreme Court 396**.

6. The respondent has opposed the prayer of transfer. He submits that the applicant is able bodied and a working women. The proceedings for dissolution of marriage were filed in 2018 and the present applicant is filed in 2023. She has already executed power of

attorney in favour of his brother. The contentions of inconvenience and hardship are denied.

7. Learned counsel for the respondent has placed on record a compilation of the documents born from the record pending in the Court of Nilanga. He has pointed out the documents at page no. 3 and 9 of the compilation disclosing that the parties in fact decided to convert the proceedings into the divorce by mutual consent under Section 13 (b) of Hindu Marriage Act. The consent terms are also prepared and signed by the parties. However, applicant resiled without any reasons.

8. Learned counsel for the respondent would submit that the conduct of the applicant is objectionable. She has suppressed the above facts and her application is liable to be rejected. It is further contended that she has travelled abroad also which belies her theory of inconvenience and hardship to travel from Pune to Nilanga. It is further submitted that she can avail the facility of video conferencing to attend the proceedings at Nilanga.

9. I have considered rival submissions of the parties. Admittedly, applicant resides at Pune and proceedings for dissolution of marriage are pending at Court at Nilanga. The distance between two cities is near about 380 km. There is no reason to disbelieve the applicant that she is required to be accompanied by a person to attend the proceedings at Nilanga. Hardship of the applicant cannot be ruled out. It

is trite law that convenience of a wife has to be looked at. The ratio laid down in following judgments which supports claim of the applicant, are as follows :

- a) *Sumita Singh Versus Kumar Sanjay*, **2002 AIR (SC) 396** ;
- b) *Soma Choudhury Versus Gourab Choudhary*, **(2004) 13 Supreme Court Cases 462** ;
- c) *Sangamitra Ramakant Royalwar Versus Ramakant Gangaram Royalwar*, **2009 (1) Mh.L.J. 303** ;
- d) *Anita Balkrishna Barge Versus Balkrishna Sopan Barge*, **2011 (1) Mh.L.J. 518** ;
- e) *Mahadevi Gopal Mehetre Versus Gopal Prabhakar Mehetre*, **2016 (4) All.M.R. 599** ;
- f) *Vaishali Shridhar Jagtap Versus Shridhar Vishwanath Jagtap*, **2016 AIR (SC) 3584** ;
- g) *Pooja Rohan Jadhav Versus Rohan Ramesh Jadhav*, **order passed by High Court, Bench at Aurangabad in MCA No. 171 of 2018** ;
- h) *Ashwini Kailas Patil Versus Shivajirao Anandrao Gaekwar*, **order passed by High Court, Bench at Aurangabad In MCA No. 46 of 2020.**

10. Respondent is in service and an earning member. There is nothing on the record to indicate that he is physically unable to travel from Nilanga to Pune. The learned counsel for respondent would submit that respondent be permitted to attend proceedings on video conferencing.

11. The applicant is residing at the address given in the title clause which falls within the Corporation limit of Pune. Family Court at Pune, is a Competent Court to decide the proceedings. Considering over all circumstances, I am inclined to allow the application. Hence, I pass following order :

ORDER

- i. Hindu Marriage Petition No. 81 of 2018, pending before the Court of Civil Judge Senior Division, Nilanga, District Latur, shall be transferred to Family Court at Pune and for that purpose the record and proceedings be transmitted to Pune.
- ii. Parties to appear before Family Court at Pune on 22nd December, 2023.
- iii. The respondent is at liberty to avail facility of video conferencing with the leave of Family Court.
- iv. The application is allowed, accordingly.

[SHAILESH P. BRAHME, J.]