

CORRECTED COPY**This order is corrected as per Court's order dated 18.12.2023****IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD****180 MISC.CIVIL APPLICATION NO. 28 OF 2019**

NAMRATA YUVRAJ MASTUD

VERSUS

YUVRAJ BABURAO MASTUD

...

Advocate for Applicant : Mr. Quadri Tabrezuddin Rahimuddin

Advocate for Respondent : Mr. S.S. Birajdar

h/f. Mr. Sudhir K. Chavan

...

CORAM : SHAILESH P. BRAHME, J.**DATE : 11th DECEMBER, 2023****PER COURT :**

1. Heard the learned counsel for for both the sides finally.
2. By way of this application, the applicant is seeking transfer of the proceedings of dissolution of marriage filed before the Family Court at Bandra, Mumbai to Family Court at Dhule.
3. The learned counsel for the applicant submits that it is not possible for the applicant to attend the proceedings by travelling from Dhule to Mumbai. He further submits that the wife was serving in Mumbai for three months from January, 2018 to March 2018. Thereafter, she left Mumbai and residing at Dhule. The hardship and sufferings persist.

4. The learned counsel for the respondent submits that the application is frivolous. The applicant is able bodied person and is in a position to attend the proceedings at Mumbai. She has suppressed material facts. The conduct of the applicant was objectionable. No discretion can be exercised in her favour. He further submits that respondent is staying abroad. He has executed power of attorney in favour of his mother. His mother is old and unable to travel from Mumbai to Dhule for the Court proceedings. He submits that greater hardship would be caused to the respondent and his mother for attending the proceedings. He, therefore, requests to reject the application.

5. I have considered rival submissions. The respondent / husband is educated and rendering services abroad. He has executed power of attorney in favour of his mother. However, he can matter virtually. He could request the Presiding Officer for suitable dates and the matter can be disposed of during his presence. The resistance of the respondent for this application is unsustainable. It is inconvenient for the applicant to travel and attend the proceedings at Mumbai. Her sufferings and hardship are apparent.

6. A useful reference can be made to the law laid down by the Supreme Court and this Court in the following matters :

- a) *Sumita Singh Versus Kumar Sanjay*, **2002 AIR (SC) 396** ;
- b) *Soma Choudhury Versus Gourab Choudhury*, **(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**.

7. For the reasons stated above, I pass following order :

ORDER

- i. The Miscellaneous Civil Application is allowed.
- ii. The Petition A No. 2237 of 2018 pending before the Family Court at Bandra, Mumbai, shall stand transferred to the Family Court at Dhule.
- iii. An endeavour be made to decide the proceedings finally as expeditiously as possible.
- iv. The concern Court shall transmit the papers immediately.

v. The parties to appear before the Family Court at Dhule on 15th January, 2024.

vi. All the proceedings pending at a place where the applicant is residing be preferably posted on same date.

[SHAILESH P. BRAHME, J.]