

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

941 MISC.CIVIL APPLICATION NO.61 OF 2022

**MADHURI MAHENDRA AABNAVE
VERSUS
MAHENDRA VIJAYRAO AABNAVE**

...
Advocate for Applicant : Mr. Pranav. P. Phadnis
Advocate for Respondent : Mr. Rajendra L. Kute

...
CORAM : SANDIPKUMAR C. MORE, J.

DATE : 06.04.2023

PER COURT :

1. Heard rival submissions.
2. The applicant – wife is seeking transfer of HMP No.151 of 2021 filed by respondent- husband for getting divorce, from the Court of Civil Judge Senior Division, Kopargaon, Dist. Ahmednagar to the Family Court, Pune.
3. According to the applicant-wife, she is not having any independent source of income. Moreover, the distance between Kopargaon and Pune is about 300 kms. and therefore without any financial aid she cannot attend the dates at Kopargaon.
4. The learned counsel for the respondent- husband strongly opposed the application on the basis of affidavit-in-reply filed by the respondent husband on the ground that the applicant herself deserted him. He had also gone to Pune for residing with the applicant, but due to her behaviour, he had to come to Kopargaon again.
5. It is significant to note that the age of applicant is 47 years whereas age of respondent is of 53 years. Further, their son is also aged of more than 25 years. It appears that in the year 1999

maintenance at the rate of Rs. 500/- per month was granted to the applicant by learned Family Court, Pune, however thereafter the applicant and respondent had resided together for some time.

6. The respondent has opposed the application on the ground that his mother is suffering from various ailments and requires continuous attention. However the respondent is in service at Kopergaon and therefore, considering his financial condition he can very well travel to Pune for attending the dates at Family Court, Pune. It is settled that convenience of the wife is to be seen ahead of convenience of husband in transfer cases. Moreover, nothing is there on record to show that the respondent is praying maintenance to the applicant. Therefore considering all these aspects, following order is passed :-

ORDER

- (i) The application is hereby allowed.
- (ii) The HMP No.151 of 2021 pending in the Court of Civil Judge Senior Division, Kopergaon, Dist. Ahmednagar is transferred to the Family Court, Pune for disposal according to law.
- (iii) The respondent is directed to appear before Family Court, Pune on or before 25.04.2023.
- (iv) The respondent is at liberty to attend the dates in Family Court, Pune through his counsel except on the dates where his physical presence is necessary. He is also at liberty to use facility of Video Conferencing wherever possible.
- (v) The application is disposed of accordingly.

(SANDIPKUMAR C. MORE)
JUDGE