

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

MISC. CIVIL APPLICATION NO. 64 OF 2023

Diksha w/o Vivek Zelwar Applicant

Versus

Vivek s/o Shantilal Zelwar & others Respondents

Mr. K. H. Surve, advocate for the Applicant
Mr. V. Y. Patil, advocate for Respondents No.1 to 14.

CORAM : SANDIPKUMAR C. MORE, J.

DATE : 13th July, 2023.

PC :

1 Heard rival submissions.

2 The applicant-wife is seeking transfer of Criminal Misc. Application No.320 of 2019, under Section 125 of the Code of Criminal Procedure and Criminal Misc. Application No. 321 of 2019, under the provisions of Protection of Women from Domestic Violence Act, both filed by herself in the Court of Judicial Magistrate, First Class, Sillod, to Family Court, Aurangabad wherein Marriage Petition No.A-248 of 2019, filed by respondent no.1- husband, for getting divorce, is already pending.

3 The learned Counsel for the respondents strongly opposed the application by filing affidavit-in-reply on the ground that since the applicant is residing at Sillod, she can conveniently deal with her own proceedings at Sillod only.

4 It is significant to note that the applicant-wife herself is willing to transfer the aforesaid proceedings filed by her at Sillod to Family Court, Aurangabad. Moreover, one divorce petition filed by the respondent-husband, as mentioned above, is already going on there. It is settled that when different proceedings between the same parties, arising out of same facts, are pending in different Courts, then it is always desirable that the same should be dealt with by one and the same Court. There appears no jurisdictional issue if the proceedings filed at Sillod are transferred to Family Court, Aurangabad, since the Family Court, Aurangabad, can very well deal with those proceedings. Therefore, considering all these aspects, following order is passed:

- (i) Misc. Civil Application is hereby allowed.
- (ii) Criminal Misc. Application No.320 of 2019, filed under Section 125 of the Code of Criminal Procedure and Criminal Misc. Application No. 321 of 2019, under the provisions of Protection of Women from Domestic Violence Actt by the applicant-wife in the Court of Judicial Magistrate, First Class, Sillod, are transferred to the Family Court, Aurangabad for disposal according to law along with Petition No.A-248 of 2019, filed by the respondent-husband and pending therein.
- (iii) The applicant-wife is directed to appear before the Family Court, Aurangabad, on or before 1st August, 2023.
- (iv) Misc. Civil Application is accordingly disposed of.

(SANDIPKUMAR C. MORE)
JUDGE