

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

972 MISC.CIVIL APPLICATION NO.118 OF 2022

**SHIVKANTA SOPAN DASARE
VERSUS
SOPAN DEVIDAS DASARE**

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Ms. M.S. Mhase, Advocate for the applicant.
Mr. Sudhir Chavan, Advocate for the respondent.

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CORAM : SANDIPKUMAR C. MORE, J.

DATED : 12.01.2023.

ORDER:-

1. Heard rival submissions. The applicant-wife is seeking transfer of Petition A No. 213/2021 filed by respondent – husband for restitution of conjugal rights, from the learned Family Court, Parbhani to the learned Court of Civil Judge (Senior Division) at Nilanga.

2. The learned Counsel for the applicant submits that the applicant is not having any independent source of income and she is having 3 ½ years son to look after. Moreover, she has also filed proceeding under Protection of Women from Domestic Violence Act against the respondent and his family members in the Court of J.M.F.C. Nilanga wherein the respondent – husband has already appeared.

3. On the contrary, the learned Counsel for the respondent strongly opposed the application by filing reply and contended that the proceedings at Family Court, Parbhani are at advanced stage and can be determined within short period, if the applicant co-operates. Further, he pointed out that the applicant is already attending dates at Nilanga which is 100 kms away from her native place Hipalgaon and therefore, she can also attend the dates at Parbhani which is situated nearly at the same distance from her native place.

4. However, it is extremely important to note that the respondent – husband is already attending the dates at Nilanga in the proceedings under Protection of Women from Domestic Violence Act and therefore, if the proceeding from Parbhani is transferred to Nilanga, then it would be more convenient to the applicant – wife. It is already settled under the recent judgments that the convenience of wife in transfer cases is to be considered ahead of the convenience of husband. Therefore, considering all these aspects, following order is passed.

ORDER

- (i) The application is allowed.
- (ii) Petition A. No. 213/2021 is hereby transferred from the Family Court, Parbhani to the Court

of Civil Judge (Senior Division), Nilanga for its disposal according to law.

- (iii) The respondent is directed to appear before the learned Civil Judge (Senior Division), Nilanga on or before 3rd February 2023.
- (iv) The respondent is at liberty to seek convenient dates in both the proceedings namely the Hindu Marriage Petition as well as the application under Protection of Women from Domestic Violence Act from the concerned Courts.
- (v) The application is accordingly disposed of.

(SANDIPKUMAR C. MORE, J.)