

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

MISC.CIVIL APPLICATION NO. 61 OF 2019

PRAJAKTA GANESH SAGAR

VERSUS

GANESH DHANRAJ SAGAR

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Advocate for Applicant : Mr. Godhamgaonkar M.D.

Advocate for Respondent : Mr. Sandanshiv M.B.

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CORAM : SHAILESH P BRAHME, J.

DATE : 4th DECEMBER 2023.

Per Court :

1. Heard the learned Counsel for both the sides.
2. By way of this application, the applicant is seeking transfer of the proceedings of dissolution of marriage filed before the learned Civil Judge, Senior Division, Nilanga to the Family Court at Nanded.
3. The learned Counsel for the applicant submits that it is not possible for the applicant to attend the proceedings by travelling from Nanded to Nilanga. She has ailing parent and she cannot travel alone.
4. The learned Counsel for the respondent vehemently opposed the application. He submits that the application is frivolous. The applicant is an able bodied person and is in a position to attend the proceedings at Nilanga. She has suppressed material facts. The conduct of the

applicant was objectionable. No discretion can be exercised in her favour. He further submits that as there is interim relief granted by this Court, his client is unable to withdraw the proceedings filed at Nilanga.

5. I have considered rival submissions. I record following findings.

(i) It is inconvenient for the applicant to travel and attend the proceedings at Nilanga.

(ii) She has no source of income and she is staying with her parents.

(iii) Her sufferings and hardship are apparent.

(iv) There is nothing on record to show that the respondent is unable to attend the proceedings by travelling from Nilanga to Nanded.

(v) The applicant has initiated proceedings at Nanded against the respondent.

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 Vs. Kumar Sanjay reported in (2001) 10 SCC 41.

B. Soma Chaudhury Vs. Gourab Choudhary reported in (2004) 13 SCC 462.

C. Vaishali Shridhar Jagtap Vs. Shridhar Vishwanath Jagtap reported in (2016) 14 SCC 356.

D. Sangamitra Ramakant Royalwar Vs. Ramakant Gangaram Royalwar reported in 2009 (1) Mh.L.J. 303.

E. Anita Balkrishna Barge Vs. Balkrishna Sopan Barge reported in 2011(1) Mh.L.J. 518.

- F. Mahadevi Gopal Mehetre Vs. Gopal Prabhakar Mehetre reported in 2016(4) All M.R. 599.
 - G. Judgment and order dated January 11, 2019 in Misc. Civil Application No.171/2018 in the matter of Pooja Rohan Jadhav Vs. Rohan Ramesh Jadhav.
 - H. Judgment and order dated 01 July 2022 in Misc. Civil Application No.46/2020 in the matter of Ashwini Kailas Patil Vs. Shivajirao Anandrao Gaekwar.
7. For the reasons stated above, I pass following order.

ORDER

- a. The Miscellaneous Civil Application is allowed.
- b. The proceeding bearing M.C.A. No.34/2017 pending before the learned Civil Judge, Senior Division, Nilanga shall stand transferred to the Family Court at Nanded.
- c. An endeavour be made to decide the proceedings finally as expeditiously as possible.
- d. The concern court shall transmit the papers immediately.
- e. The parties to appear before the Family Court at Nanded on 02.01.2024.
- f. All the proceedings pending at a place where the applicant is residing be preferably posted on same date.
- g. In case the respondent seeks leave to withdraw the proceeding and the permission is granted, above operation of the order shall be vacated.

[SHAILESH P BRAHME, J.]

Najeeb.