

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

MISC.CIVIL APPLICATION NO.161 OF 2023

Dr. Sau Ujjwala Ajinkya Dhakne
Age 38 years, Occ- Medical Practitioner
R/o. C/o. Laxman Wamanrao Shirsath
R/o. Bhutkarwadi Savadi, Ahmednagar,
Tq. & Dist. Ahmednagar.

Applicant

Versus

Dr Shri Ajinkya Bansidhar Dhakne
Age- 38 years, Occ- Medication Practitioner
R/o. Opp. Police Station Kopargaon,
Tq. Kopargaon, Dist. Ahmednagar.

Respondent

Mr. N.C. Garud, Advocate for the applicant.
Mr. J.I. Shaikh, Advocate for the respondent.

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[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 24th AUGUST, 2023

ORDER :

1. This application is filed by the applicant/wife seeking transfer of proceeding i.e. HMP No. 187/2017 filed by respondent/husband for divorce in the Court learned Civil Judge, Senior Division, Kopargaon to Family Court, Ahmednagar.

2. Heard the learned advocate for the applicant and learned advocate for the respondent. Perused the memo of application, annexures thereto and the reply filed by respondent.

3. It is the contention of the wife that proceedings i.e. PE No. 119/2019, PE No. 64/2022, Regular Criminal Case No.

702/2022 and Criminal Miscellaneous Application No. 19/2022 are pending in the Court at Ahmednagar and therefore, the proceeding filed by the husband at Kopargaon, may be transferred at Ahmednagar.

4. Learned advocate for the husband vehemently opposed the prayer contending that the divorce proceeding is filed at Kopargaon Court as the parties last resided together at Kopargaon and therefore this proceeding is not liable to be transferred to Ahmednagar. Further submission is presently the wife is serving at Shirdi and Kopargaon is hardly at a distance of 15 km from Shirdi and therefore, no inconvenience is likely to be caused to the wife if the proceeding is retained at Kopargaon.

5. Learned advocate for the wife submits that, the wife is serving at Shirdi on contractual basis for 11 months.

6. It is well settled principal of law that ordinarily convenience of the wife needs to be considered while deciding application for transfer of proceeding.

7. In N.C.V. Aishwarya Vs. A.S. Saravana Karthik Sha, 2022 SCC OnLine SC 1199, it is held;

"9. The cardinal principal for exercise of power under Section 24 of the Code of Civil Procedure is that

the ends of justice should demand the transfer of the suit, appeal or other proceeding. In matrimonial matters, wherever Court are called upon to consider the plea of transfer, the Courts have to take into consideration the economic soundness of both the parties, the social strata of the spouses and their behavioural pattern, their standard of life prior to the marriage and subsequent thereto and the circumstances of both the parties in eking out their livelihood and under whose protective umbrella they are seeking their sustenance to life. Given the prevailing sociology-economic paradigm in the Indian society, generally, it is the wife's convenience which must be looked at while considering transfer."

8. In the light of aforesaid ratio and since proceedings i.e. PE No. 119/2019, PE No. 64/2022, Regular Criminal Case No. 702/2022 and Criminal Miscellaneous Application No. 19/2022 are already pending before Ahmednagar Court, it is desirable to transfer proceeding HMP No. 187/2017 pending at Kopergaon Court to the Family Court, Ahmednagar. In the result, following order:

ORDER

1. Civil Miscellaneous Application is allowed.
2. Hindu Marriage Petition No. 187/2017 filed by respondent/husband in the Court of learned Civil Judge, Senior Division, Kopergaon, is hereby transferred to the Family Court at Ahmednagar.

[NITIN B. SURYAWANSHI, J.]