

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

MISC.CIVIL APPLICATION NO. 185 OF 2023

ASHWINI YOGESH BHAGYWANT
VERSUS
YOGESH DHANAJI BHGYAWANT

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Advocate for Applicant : Mr. Shubham Jaybhar h/f Mr.Jayabhar Dattatraya R.
Advocate for Respondent : Mr. Gaikwad Ranjit Dayanand

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CORAM : SHAILESH P BRAHME, J.
DATE : 7th 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 proceeding filed before the learned Civil Judge, Senior Division, Vaduj, Dist. Satara to the learned Family Court at Ahmednagar.
3. The learned Counsel for the applicant submits that it is not possible for the applicant to attend the proceedings by travelling from Ahmednagar to Vaduj, Dist. Satara.
4. The learned Counsel for the respondent vehemently opposed the application. He submits that the application is frivolous. The applicant is able bodied person and is in a position to attend the proceedings at Vaduj, Dist. Satara. She has suppressed material facts. The conduct of

the applicant was objectionable. No discretion can be exercised in her favour. It is further submitted that the applicant has acquired qualification of BBA and rendering services in private sector. She can afford to travel.

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

- (i) It is inconvenient for the applicant to travel and attend the proceedings at Vaduj, Dist. Satara.
- (ii) An economic independence of a wife cannot be a factor to reject prayer for transfer.
- (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 Vaduj, Dist. Satara to Ahmednagar.
- (v) The applicant has initiated proceedings at Ahmednagar 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 Choudhaury 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 H.M.P No. 35/2023 pending before the learned Civil Judge, Senior Division, Vaduj, Dist. Satara shall stand transferred to the learned Family Court at Ahmednagar.
- 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 learned Family Court at Ahmednagar on 09.01.2024.
- f. All the proceedings pending at a place where the applicant is residing be preferably posted on same date.

[SHAILESH P. BRAHME, J.]

Najeeb.