



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

MISCELLANEOUS CIVIL APPLICATION NO. 179 OF 2023

Fiza w/o Mansur Shaikh,
Age : 22 years, Occu. : Household,
R/o with Father Khawaja Shaikh,
Beside Babu Painter's, Mominpura,
Lotakaranja, Aurangabad. .. Applicant

Versus

Shaikh Mansur s/o Hasan Shaikh,
Age : 24 years, Occu. : Labour (Tailor)
and Agriculture,
R/o Ukkadgaon, Sandve Nagar,
Tq. & Dist. Ahmednagar. .. Respondent

Shri Taher Ali Quadri, Advocate for the Applicant.
Shri Moinpasha Shaikh Farid and Shri N. W. Pathan, Advocates
for the Respondent.

CORAM : SHAILESH P. BRAHME, J.
DATE : 14TH DECEMBER, 2023.

FINAL ORDER :

. Heard the learned counsel for both the parties finally at admission stage.

2. By way of this application, the applicant is seeking transfer of the proceedings of restitution of conjugal rights filed before the Family Court, Ahmednagar to the Family Court at Aurangabad.

3. The learned counsel for the applicant submits that it is not possible for the applicant to attend the proceedings by travelling

from Aurangabad to Ahmednagar. The applicant is residing with her mother. The applicant is having two minor children. The applicant is not having any source of income.

4. The learned counsel for the respondent vehemently opposes the application. He further submits that, the applicant is able bodied person. She can travel from Aurangabad to Ahmednagar. The distance is very short.

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

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

(ii) She is staying with her parent. She is having one minor daughter.

(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 Ahmednagar to Aurangabad.

(v) The applicant has initiated proceedings at Aurangabad 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 Choudhury 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 of 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 of 2020 in the matter of Ashwini Kailas Patil Vs. Shivajirao Anandrao Gaekwar.
7. For the reasons stated above, I pass following order.

O R D E R

- a. The Misc. Civil Application is allowed.
- b. The Petition No. A-25 of 2023 pending before the Family Court at Ahmednagar stand transferred to the Family

Court at Aurangabad.

- 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 Aurangabad on 17.01.2024.
- f. All the proceedings pending at a place where the applicant is residing be preferably posted on same date.

[SHAILESH P. BRAHME, J.]

bsb/Dec. 23