

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

MISC. CIVIL APPLICATION NO. 236 OF 2022

Swati Hemlata W/o Hemant Sonawane Applicant

Versus

Hemant S/o Suresh Sonawane Respondent

.....

Mr. Deepak D. Choudhari, Advocate for the Applicant

Mr. S.S. Kalaskar, Advocate for Respondent

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[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 12th OCTOBER, 2023

ORDER :

1. This application is filed by the applicant/wife seeking transfer of proceedings i.e. Petition A No. 410 of 2017 filed by respondent/husband, from Family Court, Nashik to Family Court, Jalgaon and Criminal Misc. Application (PWDVA) No.908 of 2017 filed by applicant/wife, from the Court of Judicial Magistrate, First Class, Nashik Road to the Court of Judicial Magistrate, First Class, Jalgaon.

2. It is the contention of applicant that respondent husband has filed Petition A No.410 of 2017 in the Family Court at Nashik, for divorce. At the relevant time, application was residing at Nashik, therefore, she has filed Criminal Misc. Application (PWDVA) No.908 of 2017 before the Judicial

Magistrate, First Class, Nashik Road. Thereafter, she has filed H.M.P. No.59 of 2018 in the Court of Civil Judge, Senior Division, Jalgaon as she is residing with her parents in Jalgaon District. The distance between Nashik and Jalgaon is about 250 km. She has minor daughter and it is very difficult for her to travel such a long distance to attend the proceedings at Nashik. She has no source of income and it is difficult for her to bear the traveling expenses.

3. Learned advocate for the husband vehemently opposed the prayer of the wife. He submits that it will cause serious hardships to the husband if the proceedings are transferred from the Courts at Nashik to Courts at Jalgaon. He is ready to bear traveling expenses of applicant. He therefore submits that application may be rejected.

4. It is well settled principle of law that convenience of the wife needs to be considered while deciding application for transfer of proceeding. In **N.C.V. Aishwarya Vs. A.S. Saravana Karthik Sha**, 2022 SCC OnLine SC 1199, it is held;

"9. The cardinal principle 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."

5. There is merit in the contention of the wife that it would cause inconvenience and hardship to her if she asked to travel such a long distance to attend the proceedings at Nashik Courts, and since proceedings i.e. H.M.P. No.59 of 2018 is pending in the Court of Civil Judge, Senior Division, Jalgaon, before Ahmednagar Court, the application deserves to be allowed. Hence, the following order:

ORDER

- (I) Civil Miscellaneous Application is allowed.
- (II) Petition A No. 410 of 2017 pending in the Family Court, Nashik is hereby transferred to the Family Court at Jalgaon, and Criminal Misc. Application (PWDVA) No.908 of 2017 before the Court of Judicial Magistrate, First Class, Nashik Road to the Court of Judicial Magistrate, First Class, Jalgaon.

**[NITIN B. SURYAWANSHI]
JUDGE**

S.P. Rane