



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

MISC.CIVIL APPLICATION NO. 176 OF 2019

**FARHEEN SULTANA DABEER AHMED SOMANI
VERSUS
DABEER AHMED SOMANI KHADIR AHMED SOMANI**

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Advocate for Applicant : Mr. Katneshwarkar S.P.

Advocate for Respondent : Mr. Vilas M. Humbe

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CORAM : SHAILESH P. BRAHME, J.

DATE : 18th DECEMBER 2023.

Per Court :

. Heard.

1. The applicant is seeking transfer of proceeding from the Family Court at Solapur to the Family Court at Nanded. Learned Counsel for the applicant submits that the applicant has no source of income. She is staying with the parents. She is maintaining two children born out of the wedlock. It is contended that the respondent is rendering services abroad in Kuwait.

2. It is interesting to note that the marriage between the parties is dissolved by judgment and order dated 27.05.2019 passed by the learned Judge, Family Court, Nanded in Petition No. A-5/2018. No appeal has been preferred against the decree. Despite that the respondent/husband is prosecuting suit for restitution of conjugal rights

bearing P.A. No.207/2017. The applicant is seeking transfer of the proceedings.

3. Per contra, learned Counsel for the respondent has opposed the contentions and the grounds for transfer. He would submit that the grounds are not genuine. The conduct of the wife is objectionable. It is stated that he is serving in Kuwait and unable to prosecute the matter, which is likely to be transferred to Nanded.

4. He seeks reliance upon the judgment of the Supreme Court in the matter of Krishna Veni Nagam Vs. Harish Nagam in Transfer Petition (Civil) No.1912/2014, especially paragraph nos. 15 to 18 to buttress that the video conferencing facility to be extended.

5. There is no controversy that the applicant is maintaining two minor children. The marriage has been dissolved by judgment and decree dated 27.05.2019, which has not been challenged. Though the husband is paying maintenance towards the children, the applicant has to physically look after the children. Her hardship, inconvenience and sufferings are apparent.

6. The reliance of the respondent on the judgment of the Supreme Court for extending video conferencing facility may not enure to the benefit of the respondent. The respondent is at liberty to request the Presiding Officer of the Family Court at Nanded for extending video conferencing facility.

7. It is very surprising that the respondent is still prosecuting the matter for restitution of conjugal right when their marriage has been dissolved by decree dated 27.05.2019. The prosecution of proceeding for restitution of conjugal right is with the oblique motive. Considering the consistent view the convenience of the applicant has to be looked into as held in following cases.

8. I therefore, pass following order :

ORDER

- a. The Miscellaneous Civil Application is allowed.
- b. The proceeding bearing Petition No. A-207/2017 pending before the Family Court at Solapur, 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, Nanded on 22.01.2024.
- f. All the proceedings pending at a place where the applicant is residing be preferably posted on same date.

[SHAILESH P. BRAHME, J.]

Najeeb.