

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

MISC.CIVIL APPLICATION NO.194 OF 2023

Chaitali Machindra Godhade

Applicant

Versus

Machindra Dadasaheb Godhade

Respondent

Mr. P.B. Shirsath, Advocate for the applicant.

Mrs. Neeta Mirajkar h/f. Mr. Manjushri Narwade, Advocate for the respondent.

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[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 7th SEPTEMBER, 2023

ORDER :

1. This application is filed by the applicant/wife seeking transfer of proceeding i.e. Hindu Marriage Petition No. 447/2022 filed by respondent/husband for divorce in the Court learned Civil Judge, Senior Division, Baramati to learned Civil Judge, Senior Division, Shrigonda.

2. It is the contention of the wife that proceedings filed by the wife i.e. Criminal Miscellaneous Application No. 281/2022 for maintenance and Criminal Miscellaneous Application No. 283/2022, filed under Domestic Violence Act, are pending in the Court of learned Judicial Magistrate First Class, Shrigonda,

District- Ahmednagar and therefore, the proceeding filed by the husband at Baramati, may be transferred to Shrigonda.

3. Learned advocate for the husband vehemently opposed the application contending that the distance between Baramati and Shrigonda is only 60 km, and on number of occasions, applicant/wife has attended the proceeding at Baramati. She submits that the husband is ready to bear the traveling expenses of the wife for attending the proceeding at Baramati. She therefore submits that, there is no merit in the application and the application deserves to be dismissed.

4. 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.

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

6. 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."

7. In the light of aforesaid ratio and since proceedings i.e. Criminal Miscellaneous Applications No. 281/2022 and 283/2022 are already pending before Shrigonda Court, it is desirable to transfer proceeding i.e. Hindu Marriage Petition No.447/2022 pending before learned Civil Judge, Senior Division, Baramati, District- Pune, to the learned Civil Judge, Senior Division, Shrigonda, District- Ahmednagar. In the result, following order:

ORDER

- (I) Civil Miscellaneous Application is allowed.
- (II) Hindu Marriage Petition No. 447/2022 pending in the Court of learned Civil Judge, Senior Division, Baramati, District- Pune, is hereby transferred to learned Civil Judge, Senior Division, Shrigonda, District- Ahmednagar.

- (III) It is made clear that all the three proceedings pending in Shrigonda Court shall be taken up on same date, every time.

[NITIN B. SURYAWANSHI, J.]