

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

MISC. CIVIL APPLICATION NO.203 OF 2023

Priyanka Santosh Salave Applicant

Versus

Santosh Uttam Salave Respondents

.....
Ms. Nayana P. Patil, Advocate for the Applicant
Mr. Balasaheb M. Waghmare, Advocate for the Respondent
.....

[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 14th September , 2023

ORDER :

1. This application is filed by the applicant/wife seeking transfer of proceeding i.e. Marriage Petition No.117 of 2023, filed by respondent/husband for divorce in the Court learned Civil Judge, Senior Division, Pune to the Court of learned Civil Judge, Senior Division at Ambajogai District – Beed.

2. Heard learned advocate for the applicant and learned advocate for the respondent. Perused the memo of application, annexures thereto and the reply filed by respondent.

3. Learned advocate for the applicant/wife submits that, the applicant/wife is residing with her parents at Beed, and distance between Beed to Pune is about 250 km and it is very difficult for her to travel such a long distance to attend the proceeding at Pune. Her parents are old and infirm and they are unable to travel such a long distance along with her on every date. She has no source of income and it is difficult for her to bear the traveling expenses.

4. It is further contention of the wife that she has filed PWDVA Application No.338/2023, in the Court of Judicial Magistrate, First Class, Parali, District – Beed, against the respondent/husband under Section 12 of the Domestic Violence Act. She has also filed Misc. Cri. Application No.337/2023 under Section 125 of the Code of Criminal Procedure in the Court of Judicial Magistrate First Class, Parali and another proceeding filed under Section 9 of the Hindu Marriage Act for restitution of conjugal rights bearing HMP No.136 of 2023, before the learned Civil Judge Senior Division, Ahmabjogai, District – Beed, and therefore, proceeding filed by the husband at Pune may be transferred at Ambajogai.

5. Learned advocate for the respondent/husband strongly opposed the prayer contending that the applicant/wife is an engineer and she is in a position of attend the matter at Pune. The respondent/husband is ready to bear her traveling expenses.

6. Admittedly, proceedings i.e. PWDVA Application No.338/2023, Misc. Cri. Application No.337/2023 are pending before the Court at Parali, Dist. Beed, and HMP No.136 of 2023 is pending before the Court at Ambajogai, Dist. Beed.

7. 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."

7. In the light of aforesaid ratio and since, three proceedings PWDVA Application No.338/2023, Misc. Cri. Application No.337/2023 and and HMP No.136 of 2023 are pending before the Courts at Beed District, out of which HMP No.136 of 2023 is pending before the Court at Ambajogai, it is desirable to transfer proceeding of Marriage Petition No.117 of 2023 pending in the Court of Civil Judge, Senior Division, Pune to the Court of Civil Judge, Senior Division at Ambajogai District Beed. In the result, following order:

ORDER

- (I) Civil Miscellaneous Application is allowed.
- (II) Marriage Petition No.117 of 2023 pending before the Court of Civil Judge, Senior Division, Pune is hereby transferred to the Court of Civil Judge, Senior Division at Ambajogai District Beed.

**[NITIN B. SURYAWANSHI]
JUDGE**

S.P. Rane