

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

963 MISCELLANEOUS CIVIL APPLICATION NO. 239 OF 2022

SURASHRI AMOL BHAGAT ALIAS SURASHRI ARVIND RAUT
VERSUS
AMOL SURESHRAO BHAGAT

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Mr. M.T. Rautray – Advocate for Applicant

Mr. D.U. Manwatkar h/f. Mr. S.S. Randive – Advocate for
Respondent

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CORAM : SANDIPKUMAR C. MORE, J.

DATE : 6th July, 2023

PER COURT :

1. Heard rival submissions.
2. The applicant – wife is seeking transfer of Hindu Marriage Petition No.731 of 2021 filed by respondent – husband for getting divorce, from the Court of C.J.S.D., Panvel, Dist. Raigad, to the Family Court, Aurangabad.
3. According to the applicant – wife, she is not having any independent source of income and the distance between Panvel and Aurangabad is around of 330 Kilometers. Moreover, she has also maintaining one son without any

financial assistance from the respondent. She has also filed proceedings under provisions of P.W.D.V. Act as well as Section 125 of Cr.P.C. at Aurangabad, wherein the respondent – husband has already appeared.

4. The learned Counsel for the respondent – husband strongly opposed the application on the ground that, the respondent is serving as a Lecturer at Panvel and therefore, he is unable to find time to attend dates at Aurangabad. However, in alternative learned Counsel for the respondent – husband submits that, if the proceeding for divorce is transferred to Aurangabad then the proceeding under P.W.D.V. Act filed by the applicant – wife in the Court of concerned Magistrate of Aurangabad can also be transferred to Family Court for avoiding conflicts of decision.

5. It is significant to note that, under Section 26 of the P.W.D.V. Act the Family Court can also exercise powers to grant reliefs available under the provisions of the aforesaid Act. Further, it is already settled that when the different proceedings between the same parties are pending in different

Courts' then the same should be decided by the one and same Court for avoiding conflict of decisions. The respondent – husband is already appearing in the proceedings at Aurangabad and therefore, considering the convenience of the applicant – wife following order is passed :-

ORDER

- (i) The application is hereby allowed.
- (ii) Hindu Marriage Petition No. 731 of 2021 pending in the Court of C.J.S.D., Panvel, Dist. Raigad, is transferred to the Family Court, Aurangabad for its simultaneous disposal alongwith the proceedings filed by the applicant – wife therein, according to law.
- (iii) Likewise the P.W.D.V. Application No. 288 of 2022 filed by the applicant in the Court of 5th J.M.F.C., Aurangabad is also transferred to Family Court, Aurangabad.
- (iv) The respondent is directed to appear before the Family Court, Aurangabad on or before

25th July, 2023 and he will be at liberty to seek convenient dates for all the proceedings between himself and applicant.

- (v) The application is disposed of accordingly.

[SANDIPKUMAR C. MORE]
JUDGE