

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

995 MISC.CIVIL APPLICATION NO.221 OF 2021

**ASMA RUSHAID KOTWAL
VERSUS
RUSHAID MUSHTAQ KOTWAL**

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Mrs. U.T. Pathan, Advocate holding for T.W. Pathan, Advocate
for the applicant.

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CORAM : SANDIPKUMAR C. MORE, J.

DATED : 20th January 2023.

ORDER:-

1. Heard learned Counsel for the applicant. Despite last chance, the respondent and his Advocate remained absent. The learned Counsel for the applicant – wife submits that the proceedings bearing Case No.24/2021 filed by the respondent husband under the Guardian and Wards Act as well as Regular Civil Suit No. 316/2021 for getting divorce are already withdrawn by the respondent – husband from the concerned Courts namely District Judge-5 Nashik and Jt. Civil Judge (S.D.), Nashik. Thus, the applicant is now seeking transfer of only Petition-D No. 19/2021 filed by her for getting custody of her minor son, from the Family Court, Nashik to Family Court, Aurangabad.

2. It appears that the applicant has also filed proceeding under Protection of Women from Domestic Violence Act, 2005 before the concerned Court of J.M.F.C. Aurangabad and an application for maintenance under Section 125 of the Code of Criminal Procedure in Family Court, Aurangabad. The respondent has also appeared in the aforesaid proceedings at Aurangabad. The Hon'ble Apex Court in latest judgments has opined that in transfer cases the convenience of the wife is to be seen primarily. Further, it is also advisable that the cases based on same facts are to be dealt by one and the same Court. The respondent needs to attend the dates at Aurangabad anyhow and therefore, the petition filed by applicant wife in Nashik Family Court can be conveniently transferred to Aurangabad for proper adjudication. In view of the same, following order is passed.

ORDER

- (i) The application is partly allowed.
- (ii) The Petition-D No.19/2021 pending in Family Court, Nashik is hereby transferred to the Family Court, Aurangabad for its disposal according to law.
- (iii) The respondent is directed to appear before the learned Family Court, Aurangabad on or before 15th February 2023. He may seek

convenient dates from the concerned
Courts at Aurangabad.

- (iv) The application is accordingly disposed of.

(SANDIPKUMAR C. MORE, J.)