

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

973 MISCELLANEOUS CIVIL APPLICATION NO.314 OF 2022

Asmita Amit Biradar,
Age : 27 years, Occ. : Household,
R/o. : Jamkhandi, Flat No. A-404,
Avenir Society, Dabhadi, Ambegaon,
Park, Pune, at present – Walsangavi,
Tq. Nilanga, Dist. Latur

... APPLICANT

VERSUS

Amit Gopalrao Biradar,
Age : 32 years, Occ. : Pvt. Service,
R/o. : Jamkhandi, Flat No. A-404, A
venir Society, Dabhadi, Ambegaon Bk,
Pune – 411046

... RESPONDENT

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Ms. A.r. Mate h/f. Ms. M.S. Madhaveswari – Advocate for
Applicant
Mr. R.D. Biradar – Advocate for Respondent

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CORAM : SANDIPKUMAR C. MORE, J.

DATE : 22nd June, 2023

PER COURT :

1. Heard rival submissions.
2. The applicant – wife is seeking transfer of Marriage
Petition No. A – 1500 of 2022 filed by respondent – husband
for getting divorce from Family Court, Pune to the Court of

Civil Judge Senior Division, Nilanga, Dist. Latur.

3. According to the applicant – wife, she is not having any independent source of income. Moreover, she has also filed proceeding under Protection of Women from Domestic Violence Act against the respondent – husband and his family members. The respondent has not appeared in the said proceeding yet.

4. The learned Counsel for the respondent – husband strongly opposed the application and contended that, the respondent is doing night shift and therefore unable to attend the dates at Nilanga, Dist. Latur. The learned Counsel for the respondent also argued that, in one Whats App communication the applicant had demanded exorbitant amount of Rs.25,00,000/- and five acres land despite the respondent having only one acre land. However, in this application only convenience of the parties to be seen. Admittedly, the distance between Pune and Nilanga is around 380 Kilometers. Moreover, after service of summons the respondent – husband will have to appear in D.V. proceeding

filed by the applicant – wife therein.

5. The learned Counsel for the respondent relied upon the judgment of Hon'ble Apex Court in the case of **M. Sivagami Vs. R. Raja** reported in *(2005) 12 SCC 301* wherein certain conveyance charges was allowed to the applicant – wife for attending the dates in the proceedings filed by the respondent. However, as per the recent view of Hon'ble Apex Court as well as this Court the convenience of wife is to be seen ahead of the convenience of the husband. In view of the same, and considering the distance between the Nilanga and Pune and also the pendency of the D.V. proceeding against the husband at Nilanga, following order is passed :

ORDER

- (i) The application is hereby allowed.
- (ii) Petition A. No. 1500 of 2022 pending in Family Court, Pune, is transferred to the Court of Civil Judge Senior Division, Nilanga, Dist. Latur for its disposal according to law.

- (iii) The respondent is directed to appear before Court of Civil Judge Senior Division, Nilanga, Dist. Latur, on or before 15th July, 2023 and he will be at liberty to seek convenient dates for all the proceedings pending between himself and applicant – wife at Nilanga. He is also at liberty to appear in these proceedings through his advocate unless his physical presence is required. He may use a facility of Video Conferencing, if available.
- (iv) The application is disposed of accordingly.

[SANDIPKUMAR C. MORE]
JUDGE