



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

MISCELLANEOUS CIVIL APPLICATION NO. 203 OF 2017

Tabassum w/o Taufiq Sayyad,
Age : 23 years, Occu. : Household,
R/o Laxminagar, Guasiya Chaul,
Akurli Road, Kandiwali (East),
Mumbai – 400 101
At present residing at
C/o Mohasin Pasha S/o Mohammad Kazi,
R/o Dhoki, Taluka and
District Osmanabad. .. Applicant

Versus

Taufiq S/o Ismail Sayyad,
Age : 27 years, Occu. : Service
R/o Laxminagar, Guasiya Chaul,
Akurli Road, Kandiwali (East),
Mumbai – 400 101. .. Respondent

Shri Rahul Cheble, Advocate h/f Shri S. S. Gangakhedkar,
Advocate for the Applicant.
Shri G. R. Sayed, Advocate for the Respondent.

CORAM : SHAILESH P. BRAHME, J.
DATE : 08TH DECEMBER, 2023.

FINAL ORDER :

. Heard the learned counsel for both the sides finally.

2. By way of this application, the applicant is seeking transfer of proceedings for declaration of validity of talaq U/Sec. 7(B) of the Family Court Act, 1984 filed before the Family Court at Bandra, Mumbai to the Family Court at Osmanabad.

3. The learned counsel for the applicant submits that it is not possible for the applicant to attend the proceedings by travelling from Osmanabad to Bandra, Mumbai. The applicant is residing with her parent. She is having minor daughter. The applicant is not having any source of income.

4. The learned counsel for the respondent submits that the application is frivolous. The applicant is able bodied person and is in a position to attend the proceedings at Mumbai. She has suppressed material facts. The conduct of the applicant was objectionable. No discretion can be exercised in her favour. He submits that other matters between the parties have been settled and there is no need to transfer the proceedings. The respondent has already given talaq to the applicant.

5. I have considered rival submissions. I record following findings.

(i) It is inconvenient for the applicant to travel and attend the proceedings at Bandra, Mumbai.

(ii) She has no source of income and she is staying with her parent.

(iii) Her sufferings and hardship are apparent.

(iv) There is nothing on record to show that the respondent is unable to attend the proceedings by travelling from Mumbai to

Osmanabad.

(v) The applicant has initiated proceedings at Osmanabad against the respondent.

6. A useful reference can be made to the law laid down by the Supreme Court and this Court in the following matters.

- A. Sumita Singh Vs. Kumar Sanjay reported in (2001) 10 SCC 41.
- B. Soma Choudhury Vs. Gourab Choudhary reported in (2004) 13 SCC 462.
- C. Vaishali Shridhar Jagtap Vs. Shridhar Vishwanath Jagtap reported in (2016) 14 SCC 356.
- D. Sangamitra Ramakant Royalwar Vs. Ramakant Gangaram Royalwar reported in 2009 (1) Mh.L.J. 303.
- E. Anita Balkrishna Barge Vs. Balkrishna Sopan Barge reported in 2011 (1) Mh.L.J. 518.
- F. Mahadevi Gopal Mehetre Vs. Gopal Prabhakar Mehetre reported in 2016(4) All M.R. 599.
- G. Judgment and order dated January 11, 2019 in Misc. Civil Application No. 171 of 2018 in the matter of Pooja Rohan Jadhav Vs. Rohan Ramesh Jadhav.
- H. Judgment and order dated 01 July 2022 in Misc. Civil Application No. 46 of 2020 in the matter of Ashwini Kailas Patil Vs. Shivajirao Anandrao Gaekwar.

7. For the reasons stated above, I pass following order.

ORDER

- a. The Misc. Civil Application is allowed.
- b. The Petition B No. 15 of 2017 pending before the Family Court at Bandra, Mumbai shall stand transferred to the Family Court at Osmanabad.
- c. An endeavour be made to decide the proceedings finally as expeditiously as possible.
- d. The concern court shall transmit the papers immediately.
- e. The parties to appear before the Family Court at Osmanabad on 09.01.2024.
- f. All the proceedings pending at a place where the applicant is residing be preferably posted on same date.
- g. The respondent is likely to withdraw the proceedings which are sought to be transferred. For the purpose of consideration of his request the Presiding Officer concern shall deal with the matter. If the request of the husband is accepted, then order passed today shall cease to operate.

[SHAILESH P. BRAHME, J.]