



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

940 MISC.CIVIL APPLICATION NO. 65 OF 2024

Manisha Samson Hatagale
(Manisha Jagdish Shinde)

....Applicant

VERSUS

Samson David Hatagale

.....Respondent

Mr. D. R. Markad, Advocate for the Applicant.
Mr. M. M. Kamble, Advocate for the Respondent.

CORAM : R. M. JOSHI, J.

DATE : 1st AUGUST, 2024.

PER COURT :

1. This application is for transfer of Petition -A No. 171/2023 filed by Respondent/husband before Family Court, Jalna to Family Court at Buldhana.

2. Applicant is wife. It is her contention that it is not convenient for her to travel from Buldhana to Jalna for attending said proceeding and hence said proceeding be transferred to Family Court, Buldhana. It is also contended that there are three other proceedings filed against Respondent viz.; RCC No. 50/2023, proceeding under Protection of Women from Domestic Violence Act bearing Misc. Cri. Application No. 81/2011 and Petition before Family Court, Buldhana

for recovery of maintenance under Section 125 of Code of Criminal Procedure and that Respondent is required to attend the said proceedings.

3. Learned counsel for Applicant submits that since the husband is required to attend these proceedings at Buldhana, no prejudice will cause to him if Petition A-No. 171/2023 is transferred from Jalna to Buldhana. It is also claimed that being a lady, it is not possible for the applicant to travel from Buldhana to Jalna to attend said proceeding and that same will cause prejudice to her defence.

4. Learned counsel for Respondent/husband opposed the said submission by drawing attention of the Court to the fact that the Applicant had appeared in proceeding before Court at Jalna once and has appointed two advocates to represent her. It is his further submission that learned Judge of Family Court, Jalna has recorded evidence of Respondent/husband and his evidence is now closed and stage of the proceeding is for recording evidence of Applicant herein. It is his submission that since considerable evidence has been recorded by the Judge, Family Court, Jalna, it would be in the interest of the parties that the said Judge decides the Petition. On

instructions from Respondent, who is present in the Court, a statement is made that if advanced copy of affidavit-in-lieu of examination-in-chief is provided to the Respondent, the Applicant would be required to attend Family Court, Jalna only on one day and that on the scheduled day her cross-examination will be concluded. He also makes a statement that he is ready to pay conveyance expenses to the Applicant and the person accompanying her. He also submits that Respondent would pay Rs. 1,000/- per visit to the Applicant for her appearance in the Family Court at Jalna.

5. No doubt, it is settled law that convenience of wife needs to be considered while deciding the place of proceeding. However, at the same time, it cannot be ignored that it would be in the interest of parties that the Judge before whom substantial evidence is recorded decides the dispute. Here in this case, evidence of Respondent is over before Family Court, Jalna. Offer made by Respondent to the wife for her appearance before Family Court, Jalna for undergoing cross-examination, sufficiently takes care of her convenience. Having regard to these facts, this Court is of the view that it would not be in the interest of parties to transfer Petition A No. 171/2023 from Family Court, Jalna to Family Court, Buldhana. It is immaterial as

to whether Respondent is required to appear in the proceeding filed at Buldhana.

6. In view of the above, application is disposed of. Applicant is directed to file affidavit-in-lieu of examination-in-chief before the Family Court, Jalna. Advance copy of the same be provided to the other side. Learned counsel for both sides undertake to appear before Family Court, Jalna on 16.08.2024. Family Court, Jalna is requested to record cross-examination of³⁴ Applicant on that day itself. Respondent to pay Rs. 1,500/- per visit to the Applicant for her appearance in Family Court, Jalna.

(R. M. JOSHI)
Judge

dyb