



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

49 MISC.CIVIL APPLICATION NO. 164 OF 2023

SAMRUDHI ANAND KANKARIYA

VERSUS

ANAND OMPRAKASH KANKARIYA

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Advocate for Applicant : Adv.D.A.Mane
Advocate for Respondent : Adv.S.A.Deshmukh h/f.
Adv.A.S.Deshmukh

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CORAM : ARUN R. PEDNEKER, J.

DATE : 11.03.2024

P.C. :

1] The present application is filed for transfer of the divorce proceedings i.e. Petition No.25/2023, filed by the respondent – husband at Principal Judge, Family Court, Parbhani to the Civil Judge Senior Division at Chaligaon, District Jalgaon.

2] The learned counsel for the applicant submits that the marriage between the applicant and respondent was solemnized on 28.04.2014. Out of the said wedlock, one child namely Ojas was begotten on 14.03.2016 and the child is in the custody of the applicant. The applicant is

staying with her parents at Chalisgaon. The applicant is housewife. The applicant has no source of income. The learned counsel further submits that there are two proceedings under Section 125 of Criminal Procedure Code and under the provisions of Domestic Violence Act filed at Chalisgaon and the said proceedings are pending in which the respondent husband is appearing. The respondent – husband is running cloth shop and also respondent has agricultural income, as such, the respondent is in a position to conduct the proceedings at Chaligaon. It is inconvenient for the applicant to conduct the proceedings at Parbhani.

3] *Per contra*, the learned counsel for the respondent – husband submits that the applicant lodged a complaint under Section 498A against the respondent and his family members. Thereafter, the respondent and his family members were acquitted from the aforesaid offences. Against the said order, appeal is filed before the Sessions Court at Parbhani by the applicant. As such, the applicant is conducting the proceedings at Parbhani in appeal and

applicant can defend the divorce proceedings at Parbhani.

4] Having heard rival parties. In view of the fact that more particularly there are two proceedings pending at Chalisgaon, so also, minor child is in custody of the applicant, it would be appropriate to transfer divorce proceedings i.e. Petition No.25/2023 from the Principal Judge, Family Court Parbhani to the Civil Judge Senior Division at Chalisgaon, District Jalgon. Pendency of the proceedings filed under Section 498-A of the Criminal Procedure Code may not be of any relevant factor as the appearance of the applicant in the proceedings under Section 498-A of the Criminal Procedure Code is not required. However, it is directed that as far as possible the parties have to take common dates in all the proceedings, which are pending before the Chalisgaon Court. The applicant would not take unnecessary adjournment in the proceedings at Chalisgaon. In the event, the applicant seeks adjournment in the proceedings at Chalisgaon, she would inform the Advocate for the respondent – husband in

advance so as to avoid inconvenience to the respondent – husband. It is further directed that if the Court at Parbhani has facility to conduct the proceedings through V.C., the Court at Parbhani may permit the respondent-husband to conduct the proceedings at Chalisgaon through V.C. from the Court at Parbhani. The present Misc. Civil Application is allowed in terms of prayer clause-B, which reads as under:

B] The application may kindly be allowed and proceeding bearing Petition No. 25/2023 pending before Ld. Principle Judge, Family Court, Parbhani filed by the respondent may kindly be transferred to the file of Ld. Court of Civil Judge, Senior Division, at Chalisgaon, Dist. Jalgaon.

5] Misc. Civil Application is disposed of accordingly.

[ARUN R. PEDNEKER]
JUDGE

DDC