



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

MISC.CIVIL APPLICATION NO. 271 OF 2022

**MAYA ALIAS LAXMIBAI DNYANESHWAR CHAVAN
VERSUS
DNYANESHWAR HANSRAJ CHAVAN**

Mr. S. S. Shaikh h/f Mr. A. B. Salve, Advocate for the applicant
Mr. S. P. Salgar, Advocate for respondent

CORAM : R. M. JOSHI, J.

DATE : 12th JULY, 2024

PER COURT :-

1. This application is for transfer of H.M.P. No. 23/2021 from C.J.S.D. Chalisgaon to Family Court, Aurangabad. It is the contention of the applicant that she is a lady and having responsibility of girl child and hence it is not possible for her to travel 150 kms to attend the said proceedings.

2. Learned counsel for the applicant submitted that on account of afore stated difficulties, she was not in a position to appear before the Court at Chalisgaon and this has resulted into the said matter being proceeded without written statement of applicant. According to him transfer of proceeding is also sought on the ground that application PDVA No. 46/2021 is pending before Family Court at Aurangabad and also Criminal M.A. No. 3668/2021 for the offence under Section 498-A of IPC

is also pending before JMFC, Aurangabad.

3. This submission is opposed by the learned counsel for the respondent by bringing notice to the Court that the proceedings under the DV Act is disposed off. Similarly, he drew attention of the Court to the fact that in Cri.M.A. No. 3668/2021 even verification has not been recorded since then. Thus, it is his contention that the application is only for the purpose of causing harassment to the respondent-husband. Learned counsel for the respondent has brought to the notice of this Court that the proceeding before the Court at Chalisgaon is at the stage of final hearing.

4. Undisputedly the proceedings of HMP No. 23/2021 is pending before the Court of having competent jurisdiction. It is settled law that the proceeding from such Court cannot be transferred causally unless the exceptional case is made out therefor. In the instant case the paramount reason for transferring the proceedings is pendency of DV proceedings No. 46/2021, which proceeding is already disposed off. As far as the criminal proceeding is concerned, though the same was filed in the year 2021 admittedly even verification is not recorded till date. Thus, it cannot be said that the Court at Aurangabad (Now Chhatrapati Sambhajinagar) has taken cognizance of the same. Hence, it cannot

become ground for transfer of proceedings from Chalisgaon.

5. However, considering the traveling involved for applicant and that she may require to seek someone else's assistance, respondent to pay Rs.1000/- per visit of applicant in person before the said Court at Chalisgaon.

(R. M. JOSHI, J.)

ssp