



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

MISC.CIVIL APPLICATION NO. 295 OF 2023
AND
MISC.CIVIL APPLICATION NO. 299 OF 2023

Jyoti Girish Patil

VERSUS

Girish Waman Patil

...

Mr. S. R. Patil, Advocate for Respondent

Mr. V. P. Patil, Advocate for Respondent

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CORAM : R.M. JOSHI, J

DATE : JULY 04, 2024

PER COURT :

1. These applications are filed by wife for seeking transfer of Marriage Petition No. 840/2023 filed by Respondent/Husband before the Civil Judge, Senior Division, Belapur to Family Court, Jalgaon and the proceeding for custody of minor being CMA No. 116/2023 filed before District Judge – 1, Belapur to District Court, Jalgaon.

2. It is the contention of wife that she is required to take care of her son aged about 5 years and that it is difficult for her to travel for more than 400 km distance from Jalgaon to Belapur. It is submitted by learned Counsel for Applicant/Wife that

there are three proceeding filed by wife against husband which are pending at Jalgaon and in any case, Respondent/Husband will have to remain present before the said Courts at Jalgaon. Thus, according to him, no prejudice will cause to husband if order of transfer of these proceedings is passed.

3. Learned Counsel for Respondent vehemently opposed the said submissions by contending that the proceedings are filed about a year back and that she is attending the proceedings and, therefore, there is no reason to transfer the proceedings. It is also submitted that proceedings are pending before the Court having jurisdiction over subject matter and hence, no case is made out for transfer.

4. There cannot be any dispute made with regard to the submissions made by learned Counsel for Respondent that proceeding pending before Competent Court are not to be transferred unless exception case is made out. Herein this case, Applicant is lady and admittedly required to take care of her 5 year old child. The distance between Jalgaon where she resides and Belapur, District Thane is more than 400 kms.

5. Considering these facts, calling upon the Applicant to attend the said proceedings would cause prejudice to her right to defend said proceedings effectively. As against this, husband is required to appear before the Court at Jalgaon in three proceedings filed by wife. As such, no prejudice will cause to him if the applications are allowed.

6. In view of above, both applications are allowed in terms of prayer clauses "A".

7. However, in order to ensure that husband is not harassed by keeping all these five matter on different dates, all concerned Courts are directed to ensure that proceedings between the Applicant and husband are kept on one single date. It would be the responsibility of the wife to inform this order to all concerned Courts.

(R. M. JOSHI, J.)

Malani