



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

MISC. CIVIL APPLICATION NO. 332 OF 2023

Sau. Pratibha Rajesh Chavhan .. Applicant

versus

Rajesh s/o Sitaram Chavan .. Respondent

Mr. G. V. Wani, Advocate for the Applicant.

Mrs. Rashmi S. Kulkarni, Advocate for the Respondent.

**CORAM : R. M. JOSHI, J.**

DATE : 12<sup>th</sup> NOVEMBER, 2024.

s

ORDER :

1. This application is filed under Section 24 of Code of Civil Procedure seeking transfer of Hindu Marriage Petition No. 64/2019 as well as Application filed under the provisions of Guardians and Wards Act, 1890, bearing No. 14/2021, pending before the Court at Khamgaon to Jalgaon.

2. At the outset, it needs to be recorded that both the parties are unanimous to state that in the interest of the parties, said proceedings are required to be transferred to Malkapur. Learned counsel for both the sides, on instructions from respective parties, made a statement across the bar that both the proceedings be

transferred to the appropriate Courts at Malkapur, District Buldhana.

3. In this application, the proceeding under Hindu Marriage Act is sought to be transferred so also the proceeding under Guardians and Wards Act. Ordinarily, there may not be any impediment for this Court to transfer the proceeding under Hindu Marriage Act to any competent Court. The question arises as to whether the proceeding under the Guardians and Wards Act can be transferred so. No doubt, Section 9 of the Act provides for jurisdiction of the Court competent to entertain and decide application under the provisions of the said act. In any case, District Court is competent Court for the purpose of jurisdiction. It is needless to emphasise that welfare of the child is of paramount consideration while adjudicating upon custodial and guardian issues. Though the rights of child are involved and to be determined, the same cannot be independent to the guardian as the welfare and rights of the child are sought to be secured through them. Here is the case wherein though the contesting parties are having matrimonial disputes, however, in the interest of child, they are agreeing for transfer of the proceedings to a particular place which

would be not in their interest but in the interest of the child as both parties would be in a position to take appropriate steps in the interest of the child.

4. Having regard to the peculiarity of the circumstances involved in the present case, this Court is unable to deny the request made by both the sides for transfer of the proceedings under Guardians and Wards Act to the Court at Malkapur. By doing so, interest and welfare of the child is taken care and not convenience of the parents. Needless to say that since this order has been passed in the peculiar circumstances, the same shall not become a precedent.

5. In the result, application is allowed. Proceedings under Guardian and Wards Act be placed before the Court of District Judge-1, Malkapur and the proceedings under Hindu Marriage Act be placed before the Court of Civil Judge Senior Division, Malkapur. An endeavour shall be made to dispose of both the proceedings within a period of six months from today.

**( R. M. JOSHI )**  
**Judge**