



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

MISC. CIVIL APPLICATION NO. 77 OF 2024

Sau. Pratibha Gokul Zarkhande

Age : 49 years, Occu. : Household

C/o. : Kailas Sahebrao Talvande, Parijat Society,

Bajaj Nagar, Near Jagrut Hanuman Mandir,

Waluj, Dist. Aurangabad – 413133.

At present R/o – RX 4/5, Room No. 8,

New Parijat Society, Bajaj Nagar,

Aurangabad 431133

Mob. No. 9595369068

.. Applicant

Versus

Gokul Kamlakar Zarkhande

Age : 53 years, Occu. : Service

Flat No. 203, Second Floor, Mukund Niwas,

Besides Thane Mahanagar Palika School

No. 56, Thane Ovala Naka, Ghodbandar Road,

Thane, West, 400615

Mob. No. 7021009895

.. Respondent

Mr. Bhargav B. Kulkarni, Advocate for the Applicant.

Mr. D. K. Kulkarni, Advocate for Respondent.

CORAM : KISHORE C. SANT, J.

DATED : 30th JANUARY, 2025.

P. C. :-

. Heard the parties.

2. This application is for transfer of matrimonial proceedings from the learned Family Court at Thane to the learned Family Court at Aurangabad. The application is filed by the wife. The proceedings in

the learned Family Court at Thane are initiated by the husband.

3. It is the case of the applicant that, she is presently staying with her parents. There is no one to accompany her to attend the Court proceedings at Thane. When the application was filed, one more proceeding under the Protection of Women from Domestic Violence Act, 2005 (for short “D.V.” Act) was filed by the applicant in the Court at Aurangabad and the said was pending. The applicant thus submits that, it would be in the interest of justice to transfer the proceedings to the Court at Aurangabad.

4. The learned advocate Mr. Kulkarni for respondent vehemently opposes the application. The first ground he raised is in respect of jurisdiction. He submits that, presently the proceeding is pending in the Court at Thane which comes under the jurisdiction of Principal Seat at Mumbai. This application ought to have been presented at Principal Seat. He further submits that, the respondent has to look after his old aged father who is practically bed ridden. There is one brother who is mentally not sound. Thus, he has to look after both the members in the family. The respondent is working in police department. His duty timing is not certain and that is one more reason. The wife is educated and she is used to travel to Aurangabad and Thane frequently. Now, the proceedings under the D.V. Act are already disposed of and that

ground does not survive. The respondent is ready to bear travelling expenses of two persons whenever wife is to attend the dates in the Court at Thane. He thus opposes the application.

5. After hearing the parties this Court finds that, the ground of jurisdiction was already considered by this Court in the judgment of Sangmitra Ramakant Royalwar Vs. Ramakant Gangaram Royalwar¹ wherein, it is held that the application for transfer is maintainable at any bench.

6. The learned advocate for respondent further relies upon the judgment in the case of Topan Harji Vs. Singhai Dalchand² and judgment in the case of Shah Nawaz Khan and others Vs. State of Nagaland and others³

7. This Court finds that, there is no dispute about the ratio in both these judgments, however, when there is one more specific judgment in the matrimonial cases by this Court in the case of Sangmitra Ramakant Royalwar (Supra), this Court finds that the petition is very much maintainable at this bench.

1 2009 (1) Bom.C.R. 316.

2 1924 Nagpur 152

3 (2023) 11 SCC 376.

8. Considering the comparative hardship this Court finds that, there is no one to accompany the applicant to attend the Court at Thane. It has come during the course of argument that wife of the brother of respondent stays at Thane with the respondent and thus there is someone to look after the father and brother of respondent. Considering this, this Court finds that it would be in the interest of justice to transfer the proceedings from the Family Court at Thane to the learned Family Court at Aurangabad.

9. In view of the same, the misc. civil application stands allowed in terms of prayer clause (A).

10. After transfer of the proceedings, the applicant - wife shall not seek any unnecessary adjournments. If the Court comes to a conclusion that the applicant - wife is seeking unnecessary adjournments, the Court may pass appropriate order by compensating the respondent - husband.

11. If the respondent files an application to appear through video conferencing, the said application shall be considered liberally. The petition be disposed of as early as possible and preferably within a period of one (01) year from the date of transfer of the proceedings.

12. With this, the misc. civil application is disposed of.

(KISHORE C. SANT, J.)

PS.B.