



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

6 MISC. CIVIL APPLICATION NO. 251 OF 2024

Ajaykumar S/o Dhondiram Chavan

VERSUS

Sau. Anita W/o Ajaykumar Chavan

WITH

MISC. CIVIL APPLICATION NO. 263 OF 2023

Anita Ajaykumar Chavhan

VERSUS

Ajaykumar Dhondiram Chavhan

...

Mr. Dayanand S. Mali, Advocate for Applicant in MCA/251/2024 and Respondent in MCA/263/2023.

Mr. Mahesh K. Bhosale for Respondent in MCA/251/2024 and Applicant in MCA/263/2023.

CORAM : KISHORE C. SANT, J.

DATE : 3rd MARCH 2025

PC :-

1. Heard the parties.
2. The Misc. Civil Application No. 263 of 2023 is filed by the wife seeking transfer of the proceeding pending in the Court of learned Judge, Family Court at Buldhana bearing Petition No. A-07 of 2023 to the Court of learned Civil Judge, Senior Division, Sillod, Dist.

Chhatrapati Sambhajnagar.

3. Misc. Civil Application No.251 of 2024 is filed by the husband for transfer of proceeding bearing Hindu Marriage Petition No.89 of 2024 (old No.403/2023) pending before the Court of learned Civil Judge, Senior Division, Sillod Dist. Chhatrapati Sambhajnagar to the Court of learned Judge, Family Court at Buldhana.

4. The proceeding filed by the husband is earlier in point of time i.e. for divorce. The proceeding filed by the wife is in the Court at Sillod (now transferred from Chhatrapati Sambhajnagar to Sillod) for restitution of conjugal rights. In addition to that, two more proceedings are filed and pending in the Court at Sillod i.e. one under the Domestic Violence Act bearing Criminal Misc. Application No.86 of 2024 and another under Section 144 of the Bharatiya Nagarik Suraksha Sanhita, for maintenance.

5. It is the case of the wife that since three proceedings are pending before the Court at Sillod and since the husband has already caused appearance and his attending the Court at Sillod, it would be desirable to transfer the proceeding from learned Judge, Family Court at Buldhana

to the learned Civil Judge, Senior Division, Sillod. The learned Advocate for the applicant has relied upon the judgment pass by this court in the case of *Shruti W/o. Shriram Jangam Vs. Shriram S/o. Balkrushn Jangam*.¹

6. The learned Advocate for the respondent-husband also forcefully argued that the husband is residing with both his daughters at Buldhana. The wife, though had filed proceedings for custody of the daughters. She lost the said proceeding. The wife is residing at village Varkhedi Taluka Soyegaon which is only at the distance of 75 to 80 k.m. from Bhuldhana whereas if husband is to attend the Court proceeding at Sillod for about 100 k.m.. The wife also can visit the daughters if the proceeding is transferred to Buldhana. He thus prays for transfer the proceedings from learned Civil Judge, Senior Division, Sillod to transfer the proceeding at learned Judge, Family Court at Buldhana. The husband is ready to bear the travelling expenses of the wife. The learned Advocate for the respondent has relied upon the order dated 15th February 2022 passed by this Court in the case of *Kiran Avinash Shrigani Vs. Avinash Mallinath*

1 2009(4) ALL MR 386

Shrigani in Misc. Civil Application No.133 of 2018.

7. In the present case, admittedly, there are proceedings pending at both the places i.e. one is under Section 9 of the restitution of conjugal rights and another for divorce. It is proper in the interest of justice, therefore, to decide both the proceedings by the same Court to avoid conflicting judgments.

8. Coming to the judgment in the case of ***Kiran Shrigani*** (supra), this Court had refused the application of the wife directing the husband therein to provide for travelling expenses of Rs.1,000/- on the dates of which the wife attends the Court. In the judgment in the case of ***Shruti Jangam*** (supra), this Court had allowed the application filed by the wife holding that in such matters, it is convenient of the wife that should be seen while considering the question of transfer of the proceeding.

9. Considering above position and mainly that husband has already caused his appearance and he is appearing in the proceeding at Sillod, it would be desirable to allow the application of the applicant-wife. Hence, the following order.

ORDER

- (i) Misc. Civil Application No.251 of 2024 stands rejected.
- (ii) Misc. Civil Application No.263 of 2023 stands allowed in terms of prayer clause (A).
- (iii) The applicant-wife shall not seek unnecessary adjournments in the proceeding. If the Trial Court finds that the adjournment is unnecessarily sought, the Trial Court may pass suitable order compensating the respondent-husband, if he personally remains present.
- (iv) After transfer the learned Trial Judge shall try to dispose off the proceeding as early as possible and preferably within eighteen (18) months from the date of transfer.
- (v) As far as possible, the respondent-husband shall be allowed to attend the Court proceeding through video conferencing.
- (vi) With this, both the applications stand disposed off.

[KISHORE C. SANT, J.]