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934-MCA-299-2024

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

934 MISC. CIVIL APPLICATION NO. 299 OF 2024

Jayshree Dinesh Jagtap

VERSUS

Dinesh Ramdas Jagtap

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Mr. Chetan Barku Chaudhari, Advocate for Applicant.

Mr. M. S. Shah, Advocate for the Respondent.

CORAM : KISHORE C. SANT, J.

DATE : 4th NOVEMBER 2025

PC :-

1. Heard the parties.
2. This application is moved by the applicant-wife seeking transfer of the proceeding initiated by respondent-husband in the Court of learned Civil Judge Senior Division, Kalyan, bearing Marriage Petition No. 1144 of 2023, to the Court of learned Civil Judge, Senior Division, Dhule.
3. The learned Advocate for the applicant submits that the applicant-wife is residing at Pimpalner with her parents, who are unable to

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accompany her. There is a five-year-old daughter who also stays with her. There is no one to accompany her to attend the Court proceedings at Kalyan. Three different proceedings are pending against respondent-husband in the Court at Sakri, Dist. Dhule. If she is required to go to Kalyan, she has to travel from Pimpalner to Sakri and from Sakri to Dhule and from Dhule, she gets a bus to go to Kalyan. Thus, she is required to change vehicles twice during the journey, and therefore, she finds it difficult to attend the Court proceedings at Kalyan. The learned Advocate thus submits that it is in the interest of justice to allow the application.

4. Learned Advocate for the respondent vehemently opposed the application. He submits that, in the present case, the proceeding is at an advanced stage. The evidence of the husband is already over. He is deliberately not cross-examined by the wife. She is unnecessarily seeking adjournments and prolonging the petition. No indulgence need to be shown at this stage. He relies upon the following judgments.

- (i) *Anindita Das Vs. Srijit Das*¹;
- (ii) *Harshada Tejas Narute Vs. Tejas Mukund Narute*²;
- (iii) *Savita Dnyaneshwar Rathod Vs. Dnyaneshwar Babu Rathod, passed by this Court in Misc. Civil Application No.203 of 2022 on 21.09.2023.*

5. In the case of ***Anindita Das*** (supra), the Hon'ble Apex Court refused to transfer the proceeding. The Hon'ble Apex Court recorded that, when leniency was shown to ladies, it was found that a large number of transfer petitions are filed by women taking advantage of the leniency shown by that Court. It is further observed that the leniency of the court is misused by women and petition needs to be considered on merits. In that case, a ground was taken that a six-year-old child was staying with the wife. The Court directed that the care of the child could be taken by keeping him with grandparents. The husband was directed to pay expenses for travel and the transfer petition was disposed of.

6. In the case of ***Harshada Nature*** (supra), this Court at Principal Seat at Bombay dismissed the petition seeking transfer. In the said case,

1 2005 DGLS(SC) 659

2 2021 DGLS (Bom) 2617

it was shown that it was difficult for the wife to travel from Nashik to Pune, as there is only one train available. Another ground was of the illness of her mother, who was likely to undergo some medical procedure. The court held that the power under Section 24 of C.P.C. needs to be exercised with extreme caution and not at the drop of a hat. Though some proceedings were pending at the behest of the wife, those were filed after the divorce proceedings initiated by the husband. The proceeding was at the stage of evidence and thus the Court refused to entertain the application.

7. In the case of ***Savita Rathod*** (supra), this Court observed in that case that evidence of husband was already over. The wife had also led her evidence and the matter could have been posted for arguments. It was likely that the matter would be decided within a month thereafter. The wife need not remain present for the purpose of arguments. The other proceeding, which was shown to be pending at Chalisgaon, was already disposed off. In that view request for transfer of the proceeding was refused.

8. This Court considered the judgments. In the case of **Anindita Das** (supra), the Hon'ble Apex Court has said that every case needs to be decided on its own merits, though it is observed that the leniency of the Courts may be misused by women. In the case of **Harshada Nature** (supra), the proceedings filed by the applicant-wife were filed after filing of the divorce proceeding by the husband and in that view, the court was not convinced on that ground. In the case of **Savita Rathod** (supra) also the applicant-wife had already led her evidence in the proceeding sought to be transferred and the proceeding was at the fag end of the trial.

9. This Court finds that, in the present case, there is five years child residing with the applicant. So far as merits are concerned, it is pointed out that the wife is residing in a small village named, Pimpalner. She has to travel to Kalyan by changing buses at two places. Certainly, that would take considerable time and may consume entire day only in travelling to attend the Court. In the present case, the husband has instituted the proceeding of divorce after the wife instituted proceedings in the Court at Sakri. Though the evidence of the husband is led in the

present proceeding, he could not be cross-examined by the wife, as she could not go to Kalyan and therefore she was required to file an application for setting aside “no cross” order. This also shows that it is difficult for her to attend the Court on every occasion. No doubt, the husband has shown readiness to deposit the amount towards travelling expenses, however, that would take care only of the financial aspect, the physical difficulties would still remain the same. In the present case, therefore, this Court finds that, on merits, a case is made out to transfer the proceeding from the Court of learned Civil Judge, Senior Division, Kalyan, to the Court of learned Civil Judge Senior Division, Dhule. Hence, the following order:-

ORDER

- (i) Misc. Civil Application stands allowed.
- (ii) The proceedings of Marriage Petition No. 1144 of 2023 pending in the Court of learned Civil Judge, Senior Division, Kalyan stands transferred to the Court of learned Civil Judge, Senior Division, Dhule.
- (iii) After transfer of the proceeding, the applicant shall not seek

unnecessary adjournments. In case the Trial Court finds that the adjournments are unnecessarily sought, the Trial Court may deal with such application, so as to compensate 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 one (1) year from the date of transfer.

(v) Whenever request is made by the respondent-husband seeking permission to appear through video conferencing, the same shall be considered liberally by the trial Court.

(vi) With this, Misc. Civil Application stands disposed off.

[KISHORE C. SANT, J.]