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952-MCA-348-2023

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

952 MISC. CIVIL APPLICATION NO. 348 OF 2023

Shamabi Kamil Khan Pathan.

VERSUS

Kamilkhan Noorkhan Pathan

...

Mr. G. R. Syed, Advocate for Applicant.

Mr. Hamza Khan I. Pathan Advocate for Respondent.

CORAM : KISHORE C. SANT, J.

DATE : 7th OCTOBER 2025.

PC :-

1. Heard the parties.
2. This application is filed by the applicant-wife seeking transfer of the proceeding bearing Civil Marriage Application No.150 of 2023 filed by the husband in the Court of learned District Judge, Parbhani to the Court of learned District Judge, Udgir, District Nanded.
3. The proceeding is filed seeking custody of minor children of the couple. The application is vehemently argued by the learned Advocate for the applicant.

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4. Learned Advocate Mr. Pathan vehemently opposed the application.
5. Section 9 of the Guardians and Wards Act, which reads as under:

“Section 9. Court having jurisdiction to entertain application.- (1) If the application is with respect to the guardianship of the person of the minor, it shall be made to the District Court having jurisdiction in the place where the minor ordinarily resides.

(2) If the application is with respect to the guardianship of the property of the minor, it may be made either to the District Court having jurisdiction in the place where the minor ordinarily resides or to a District Court having jurisdiction in a place where he has property.

(3) If an application with respect to the guardianship of the property of a minor is made to a District Court other than that having jurisdiction in the place where the minor ordinarily resides, the Court may return the application if in its opinion the application would be disposed of more justly or conveniently by any other District Court having jurisdiction.”

6. Considering that the petition is required to be filed where the child resides. It is not disputed that presently the children are residing at Udgir.

7. Considering above position, this Court is inclined allow the application. Hence, the following order:

ORDER

- (i) Misc. Civil Application stands allowed.

(ii) The proceedings of Civil Marriage Application No.150 of 2023 pending before the learned District Judge, Parbhani stands transferred to the Court of learned District Judge, Udgir, District Nanded..

(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.]