

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

MISC.CIVIL APPLICATION NO. 392 OF 2023

Priyanka Manoj Rathod

VERSUS

Manoj Tukaram Rathod

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Advocate for Applicant : Mr. Gunale Vishwamber Digamberrao

Advocate for Respondent : Mr. R.P. Cheble h/f Mr. S.S. Gangakhedkar

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CORAM : S. G. CHAPALGAONKAR, J.

DATED : JULY 09, 2025

PER COURT :-

1. The applicant seeks transfer of Petition No.A-261 of 2023 pending before Family Court at Nanded to learned Civil Judge, Senior Division at Udgir.
2. Mr. Gunale, learned advocate appearing for applicant submits that applicant is residing with her widowed mother at Udgir after matrimonial dispute. She has been forced to leave her matrimonial home. Mr. Gunale submits that applicant is taking care of her minor son born on 16.03.2022. The respondent/husband instituted proceeding seeking divorce before Family Court at Nanded. The distance between Udgir and Nanded is approximately 110 kms. It would difficult for applicant to travel the distance along with a minor child to attend proceeding at Family Court at Nanded. Mr. Gunale would further submit that applicant has filed domestic violence proceeding vide Misc. Civil Application No.47 of 2022 under Section

12 of Protection of Women from Domestic Violence Act, 2005 at Udgir and same is pending. The husband is attending said proceeding. Therefore, Mr. Gunale urges to allow miscellaneous civil application and transfer the proceeding pending at Family Court at Nanded to Civil Judge, Senior Division at Udgir.

3. Per contra, learned advocate appearing for respondent vehemently opposed the application. He endeavours to point out that applicant has no difficulty to travel. She was taking education at Jalna for last two years. Further, previous proceeding which was instituted at Nanded was attended by her.

4. Having considered submissions advanced, it can be observed that applicant is residing with her widowed mother at Udgir and no male member is available to undertake journey with her. Applicant has a three years old child. She is taking his care. Therefore, it would be difficult for her to undertake journey of more than 100 kms for attending proceeding at Family Court at Nanded. It is trite that in matrimonial matters when the request of transfer is made, convenience of wife has to be given precedence. There is nothing on record to show that respondent/husband would have any difficulty to attend proceeding at Udgir particularly when he is already attending domestic violence proceeding filed by wife. In this background, looking to the law laid down by Hon'ble Supreme Court in case of

(3)

N.C.V. Aishwarya vs A.S.Saravana Karthik Sha¹, application deserves to be allowed and same is allowed in terms of prayer clause (B).

5. Parties to appear before learned Civil Judge, Senior Division at Udgir on 20.08.2025.

(S.G. CHAPALGAONKAR, J.)

Mujaheed//