



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

921 MISC.CIVIL APPLICATION NO. 34 OF 2024

Jaishri Datta Gabale Alias Jaishri Shavaji Samase

VERSUS

Datta Namdeo Gabale

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Mr. Deshmukh Abhay G., Advocate for Applicant

Mr. Deshpande A. S, Advocate for the Respondent

CORAM : Y. G. KHOBRAGADE, J.

Dated : 13th January, 2026

PER COURT :-

1. Heard learned counsel appearing for the applicant and learned counsel appearing for the non applicant at length.
2. By the present application under section 24 of the Civil Procedure Code, the applicant wife is seeking transfer of Petition A-No. 565 of 2023, pending on the file of learned Family Court at Chhatrapati Sambhajnagar (Aurangabad) to the file of learned Civil Judge, Senior Division, Ambajogai, District Beed for disposal in accordance with law.
3. The learned counsel for the applicant-wife submitted that the marriage between the applicant and the non-applicant was solemnized on 21.01.2021 at village Chanai, Taluka Ambajogai, District Beed. After the marriage, the applicant cohabited with the non-applicant for about two and a half years, and they are

blessed with a female child on 19.09.2022. However, subsequently, the non-applicant subjected the applicant to ill-treatment and cruelty on various grounds, as a result of which she started residing with her parents at village Chanai. Thereafter, the non-applicant filed proceedings bearing Petition A No. 565 of 2023, pending on the file of the learned Family Court at Chhatrapati Sambhajnagar (Aurangabad), under Section 13(1) of the Hindu Marriage Act, seeking a decree of divorce, and the said proceedings are pending. Since the distance between Aurangabad and Ambajogai is about 225 kilometers, and the applicant has a female child aged about two and half years, she is unable to travel with the child and bear the travelling expenses. Moreover, she does not have any accommodation at Aurangabad.

4. Per contra, the non-applicant has filed affidavit in reply and strongly opposed the application.

5. The learned counsel appearing for the non-applicant submitted that during the pendency of the present application, both the applicant and the non-applicant mutually started residing in a rented premises at village Shelgaon, Taluka Sonpeth, District Parbhani. However, on 28.11.2024, the father and mother of the applicant visited the rented house at Shelgaon and assaulted the non-applicant by giving fist blows. Consequently, the non-

applicant lodged an FIR with Sonpeth Police Station, bearing Crime No. 351 of 2024, for the offences punishable under Sections 109, 118(2), 118(1), 352, 351(3), and 3(5) of the Bharatiya Nyaya Sanhita against the father and mother of the applicant and other accused. The parents of the present applicant have been enlarged on bail; however, the applications for anticipatory bail filed by the other accused, namely Rameshwar Aalse and Bandu Kukade, came to be rejected.

6. The learned counsel for the non-applicant further submitted that if Petition A No. 565 of 2023, pending on the file of the learned Family Court at Chhatrapati Sambhajnagar (Aurangabad), is transferred to the Court of the learned Civil Judge, Senior Division, Ambajogai, District Beed, the non-applicant would be required to attend the proceedings at Ambajogai, and there is every possibility of assault at the hands of the relatives of the applicant.

7. Needless to say that the non applicant himself stated that he was assaulted at the hands his in-laws and other relatives when he was staying in a rented premises at village Shelgaon and the FIR has been registered against them. The said incident appears to be something different, which does not relate to the transfer of the present proceeding bearing Petition A-No. 565 of

2023, pending on the file of learned Family Court at Chhatrapati Sambhajinagar (Aurangabad) to the file of learned Civil Judge, Senior Division, Ambajogai, District Beed.

8. Section 24 of the Civil Procedure Code provides a general power to the Court for transfer of proceeding from one court to another. In the case in hand, the applicant has stated that she has a two and half years old child and has no source of income to bear the expenses of travelling from Ambajogai to Aurangabad. So also she is not having accommodation at Aurangabad to attend the proceeding.

9. It is well settled that while transferring proceedings from one court to another, the convenience of the lady is a paramount consideration. In the present case, the non-applicant husband is residing at Aurangabad, whereas the applicant is residing at village Chanai, District Beed. Therefore, considering the convenience of the applicant, it is necessary to transfer Petition A No. 565 of 2023, pending on the file of the learned Family Court at Chhatrapati Sambhajinagar (Aurangabad), to the Court of the learned Civil Judge, Senior Division, Ambajogai, District Beed, for disposal in accordance with law

10. In view of the above discussions, following order is passed:

ORDER

- (1) Misc. Civil application is allowed.
- (2) Petition A No. 565 of 2023, filed by the non-applicant husband, pending on the file of learned Family Court at Chhatrapati Sambhajanagar (Aurangabad) is hereby transferred to the Court of the learned Civil Judge, Senior Division, Ambajogai, District Beed, for disposal in accordance with law.
- (3) The order be communicated to the concerned courts.

(Y. G. KHOBRAGADE, J.)

JPChavan