

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

MISCELLANEOUS CIVIL APPLICATION NO. 75 OF 2015

Meena @ Janhvi w/o Kishor Pund,
Age 22 years, occup. Household,
r/o C/o Madhukar Panditrao Satav,
at Kendra, Tq. Sengaon, Dist. Hingoli .. Applicant

versus

Kishor s/o Devidas Pund,
Age 27 years occup. Service,
R/o Road No.1, Line No.6, Naregaon,
M.I.D.C., Chikalthan, Aurangabad,
Tq. and Dist. Aurangabad .. Respondent

Mr. Angad L. Kanade, Advocate for applicant
Mr. V. R. Autade, Advocate for respondent

CORAM : SUNIL P. DESHMUKH, J.

2ND DECEMBER, 2015

ORAL JUDGMENT:

1. Rule. Rule made returnable forthwith. Heard learned counsel for parties finally by consent.

2. This is wife's application for transfer of proceedings filed by husband-respondent in family court at Aurangabad, bearing

No. petition-A 12/2015 to the court of Civil Judge, Senior Division, Hingoli.

3. The applicant and the respondent have married in 2012 and after about six months, they appear to have parted their ways. Consequently, applicant is residing with her father and sisters at village Kendra, Taluka Sengaoon, District Hingoli.

4. It appears that respondent has moved divorce proceedings in the family court at Aurangabad, referred to hereinabove.

5. The applicant contends that she has no earning source worth the name nor her father is earning. It is her sisters who do labour work and earn for family. The applicant and her father are eking out their existence on the earnings of sisters. Under the circumstances, it is economically absolutely unviable for them to make frequent trips to Aurangabad to attend the proceedings. It is submitted that apart from expenses, distance between Aurangabad and Hingoli is about 200 kilometer and odd which is prohibitive for the applicant she being a lady and father cannot accompany her on account of his old age and sisters would not be able to afford to accompany her to Aurangabad, for, unless they earn, family may not survive.

6. Learned counsel for respondent, however, has reservation over aforesaid submissions, stating that the proceedings have been filed at Aurangabad since the couple last resided at Aurangabad. He submits that the respondent is ready to bear expenses of the visits of applicant to Aurangabad to attend said proceedings. He submits, almost all the witnesses are from Aurangabad and in the circumstances, it would be difficult for him to adduce evidence in the proceedings at Hingoli. However, respondent is not in a position to dispute veracity of aforesaid submission on behalf of the applicant.

7. Learned counsel for the applicant refers to two decisions, one in the case of *Sumita Singh vs. Kumar Sanjay and another*, reported in *AIR 2002 SC 396* and other in *Anita Balkrishna Barge vs. Balkrishna Sopan Barge*, reported in *2011 (3) Bom.C.R. 866*. In both the decisions, the courts have considered that it is the wife's convenience which would prevail.

8. In the circumstances, application deserves to be considered in favour of the applicant. Difficulties in respect of evidence to be adduced by respondent in court at Hingoli can be taken care of by arranging dates for evidence at Hingoli convenient to the witnesses.

10. Having regard to the decisions referred to hereinabove, I

deem it appropriate to allow the application, and accordingly, allow the same in terms of prayer clause (B).

12. Application stands disposed of. Rule made absolute in aforesaid terms.

SUNIL P. DESHMUKH, J.

pnd