

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

MISCELLANEOUS CIVIL APPLICATION NO. 130 OF 2015

Sow Deepali W/o Rahul Harba,
Age- 21 years, Occ. Nil,
R/o at present C/o Janabai
Geetaram Ghorpade, Forging Colony,
M.I.D.C. Ahmednagar, Tal. And
Dist. Ahmednagar

...APPLICANT

versus

Rahul S/o Vaijnath Harba,
Age- 26 years, Occ. Business,
R/o Ranjangaon Phata, Sai Construction
Colony, Near Saibaba Mandir, Ranjangaon,
Tal Gangapur, Dist. Aurangabad.

AND

Office Address- Survey No. 46/1, House No. 39,
Deonandini Nagar, Begampura, Aurangabad ...RESPONDENTS

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Mr. Sandip R. Andhale , Advocate for applicant
Mr. Sanjaykumar Chavan, Advocate for respondent

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CORAM : SUNIL P. DESHMUKH, J.

DATED : 7th DECEMBER, 2015

ORAL JUDGMENT :-

1. Rule. Rule made returnable forthwith. Heard learned counsel for parties finally, by consent.
2. This is miscellaneous civil application, moved by applicant-wife for transfer of proceedings initiated by respondent - husband

at Aurangabad court to the court at Ahmednagar, stating that that she is staying with her mother and sister at Ahmednagar and there is no male member in the family to accompany her to attend the proceedings at Aurangabad and as such, it is cumbersome for her to attend the same. Simultaneously, she also states that she has no earning source, in addition to that her child - daughter is only of six months. In the circumstances, relying on various decisions of the Supreme Court and High Courts, learned counsel earnestly requests for transfer of proceedings from the family court at Aurangabad to court of civil judge, senior division at Ahmednagar.

3. On the other hand, learned counsel appearing for respondent points out that applicant married with respondent during subsistence of her first marriage. It is further being pointed out that in the proceedings for divorce at Aurangabad by respondent, a town at which he was required to stay because of the applicant, no response had been filed by her for quite some time and it is only upon direction of this court, written statement has been filed. In retaliation to aforesaid proceedings by the respondent, the applicant has deliberately filed proceedings under the provisions of Protection of Women from Domestic Violence Act, 2005 in the court at Newasa and not at Ahmednagar.

4. Learned counsel for respondent further points out various circumstances, to persuade the court not to accede to the request under application for transfer.

5. However, it is to be noted, the contention about applicant having six months old child and that she is staying with her mother and sister without any earning, is not seriously under challenge, so is the case about her economic ability.

6. In the circumstances, I deem it appropriate that no harm would be caused to the respondent, if the proceeding the one which is pending at Aurangabad at his behest and the one at Newasa filed by the applicant are transferred to court at Ahmednagar.

7. As such, the proceedings filed by the applicant under the provisions of Protection of Women from Domestic Violence Act, 2005 in the court at Newasa bearing no. criminal application no. 80 of 2015 and the one filed by respondent in Family Court, Aurangabad bearing no. B.22 of 2014 shall be transferred to courts at Ahmednagar.

8. Having regard to the peculiar facts of the case, the proceedings for divorce by respondent and the proceedings under the provisions of Protection of Women from Domestic Violence Act, 2005 by the applicant be proceeded with and disposed of as

expeditiously as possible, preferably within a period of six months from the date of appearance of the parties before the courts at Ahmednagar. The parties to appear before the courts at Ahmednagar on 11-01-2016.

9. Accordingly, miscellaneous civil application is allowed and stands disposed of. Rule made absolute in aforesaid terms.

Sd/-

(SUNIL P. DESHMUKH, J.)

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