

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

Criminal Application No.5549 of 2014

Yaseenkhan Sarwarkhan
And Others.

.. Applicants.

Versus

Habeebabee w/o Late Nabikhan
And Others.

.. Respondents.

Shri. Vivek Bhavthankar, Advocate, for applicants.

Smt. Vaishali R. Deshpande, Advocate holding for Shri.
A.S. Bayas, Advocate for respondent No.1.

CORAM: T.V. NALAWADE, J.

DATE : 1st JULY 2015

ORDER:

1) The application is filed to challenge the order made by the Judicial Magistrate First Class, Ambajogai in Misc. Criminal Application No.564/2009 and the judgment and order of Criminal Revision No.6/2013 which was pending in the Court of the Additional Sessions Judge Ambajogai. The application was moved by the applicants, opponents of the original proceeding contending that the

Judicial Magistrate has no territorial jurisdiction to decide the case. The application is rejected by the Magistrate and this decision is confirmed by the learned Additional Sessions Judge. Both the sides are heard.

2) Learned counsel for the original applicant of the proceeding filed under the provision of the Protection of Women from Domestic Violence Act has produced some record like domicile certificate issued to the mother of the applicant and also the record like ration card issued to the family living below poverty line. This record is produced to show that the applicant is resident of Ambajogai and that the Magistrate has jurisdiction over it. The domicile certificate issued in the year 2010 is on the record. Learned counsel for the applicants submitted that the domicile certificate was obtained after filing of the proceeding and so it cannot be considered.

3) Provision of section 27 of the DV Act shows that the applicant can file proceeding in a Court which has territorial jurisdiction over the place where the applicant is residing permanently or temporarily. The provisions are

made for the benefit of the victims of the domestic violence and so strict proof about place of residence is not expected in such case. In the proceeding she has contended that she is residing in Ambajogai. Opportunity needs to be given to the applicant to show that she was residing there though temporarily on the date of filing of the proceeding. At the outset such proceeding cannot be dismissed or returned for want of territorial jurisdiction. This Court holds that the Magistrate and the learned Additional Sessions Judge have not committed any error in deciding the point against the present applicants.

4) In the result, the application stands dismissed.

Sd/-
(T.V. NALAWADE, J.)

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