

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

MISCELLANEOUS CIVIL APPLICATION NO. 138 OF 2015

Sow Manisha W/o Ravindra Khambayat
@ Manisha D/o Vishwambhar Choudhari,
Age: 34 years, Occu: Nil/ Household,
R/o C/o Vishwambhar S/o Anandrao Choudhari
Girwalkar Nagar, Infroant of Shambhuling
School, New Barshi Road, Latur, Dist. Latur. ...APPLICANT
(Ori. Plaintiffs)

versus

Ravindra S/o Subhash Khambayat,
Age: 36 years, Occu: Service (Production Engi.)
R/o Shiv Colony, Gut No. 55, Plot No. 3,
Behind Saraswati School, Jalgaon
Tq. & Dist. Jalgaon. ...RESPONDENT

.....

Mr. S.B. Ghute, Advocate for Applicant
Mr. N.R. Thorat, Advocate holding for
Mr. G.B. Kadkag, Advocate for respondent

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CORAM : SUNIL P. DESHMUKH, J.

DATED : 1st DECEMBER, 2015

ORAL JUDGMENT:

1. Learned counsel for the applicant submits that on the last date a statement was made that next date in the proceedings before trial court was 30-11-2015, on the instructions received from the client. However, he states that his client was not in a position to give proper instructions and carried a belief about the date and accordingly had told the advocate. Subsequently, it was realized that date communicated was not the date. In view the same, learned advocate expressed regret and further communicates his client is apologetic in respect of same. The statement is accepted,

and order dated 24-11-2015 stands recalled.

2. Rule. Rule made returnable forthwith. Heard the learned counsel for parties finally, with consent.

3. Undisputed position appears to be that the parties to the proceedings got married in 2008. Around 2012, their relationship deteriorated and culminated into that the wife started leaving separately from her husband at Latur with her parents.

4. Proceedings in the shape of Criminal Miscellaneous Application No. 451 of 2012 have been lodged by the applicant in the court at Latur and the same are being attended to by the respondent.

5. Subsequently, it appears, in 2015, that the respondent initiated proceedings for restitution of conjugal rights, pursuant to section 9 of the Hindu Marriage Act, 1955 in the court at Jalgaon and summons of the said proceedings has been served to the applicant in August 2015.

6. The applicant contends that she is housewife, not having any source of income and that proceedings have been initiated in the court at Jalgaon in order to deter her from proceeding with Criminal Miscellaneous Application No. 451 of 2012 pending in the court at Latur.

7. It is further being submitted on behalf of the applicant that distance between Latur and Jalgaon is 450 k.m. and that applicant

-wife may not be able to bear the expenditure required for such a long distance travel, apart from that she may require to stay at Jalgaon in order to attend to the proceedings. Having regard to economic situation and further that it is not only cumbersome but it may also deter her to attend the proceedings at Jalgaon. Respondent-husband may wield influence at Jalgaon outside the court. The applicant submits that respondent's economical position is sound and having handsome income from the employment and he has already been attending to the Court at Latur. In the circumstances, it would be appropriate that proceedings pending in the court at Jalgaon be transferred to court at Latur.

8. Learned counsel for respondent, however, contends that applicant is unlikely to lose anything in the court against the respondent. Though respondent is in employment, he would face hardship in case he is required to attend the proceedings at Latur and that would affect his service. He submits that applicant on her own saying is not doing anything (albeit it is only assumption for sake of argument without its acceptance) and under the circumstances, it would be convenient for her to attend the proceedings at Jalgaon. He further submits that respondent has several other responsibilities and have to bear the expenses for same.

9. Learned counsel for applicant, however, refers to decisions of the Supreme Court as well as High Court annexed to the petition and submits that in the circumstances having regard to the position

as aforesaid, proceedings pending in the court at Jalgaon be transferred to the court at Latur.

10. Taking into account aforesaid and that the respondent is already attending court at Latur since 2012 and if proceedings filed by him at Jalgaon are transferred to Latur, difficulties which have been expressed by the learned counsel for respondent can be taken care of by arranging dates, which would be convenient for the respondent to attend to proceedings one lodged by the applicant and the other lodged upon transfer. In the circumstances, I deem it appropriate to grant Miscellaneous Civil Application in terms of prayer clause "B".

11. Accordingly, Miscellaneous Civil Application is allowed in terms of prayer clause "B". Parties may request to the courts concerned for dates which would be convenient to the respondent to attend to courts at Latur. The dates in the proceedings may be co-ordinated in order to avoid inconvenience to the respondent. Rule is made absolutely accordingly.

Sd/-

(SUNIL P. DESHMUKH, J.)

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