

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
MISCELLANEOUS CIVIL APPLICATION 73 OF 2014**

Sou. Sobha Prasad Sawant Applicant

Vs.

Shri. Prasad Ramchandra Sawant Respondents
& Ors.

Mr. G.M. Savagave, Advocate for the Applicant.
Mr. Amit Sale, Advocate for the Respondents.

Coram : Smt. R.P. SondurBaldota, J.
Date : 10th February, 2015.

P.C.

1 Leave to amend the application is granted to delete applicant no.2 and respondent no.4 from the proceedings.

2 This civil application filed u/s 24 Code of Civil Procedure is for transfer of Miscellaneous Civil Application No.143 of 2013 filed under Section 8 of Guardians and Wards Act, 1890 by the respondents for appointing guardian of minor daughter, who is mentally challenged and Hindu Marriage Application No.10 of 2014 filed by the respondents, pending in the Court of Civil Judge, Senior Division, Sangli to the Court of Civil Judge, Senior Division, Jaysingpur.

2 The applicant is the wife and respondent no.1 is the husband. Respondents no.2 and 3 are the parents of respondent no.1.

Mr. Savagave, the learned advocate for the applicant submits that the applicant is a housewife, residing with her parents, and has to look after three children, one of whom, is a mentally challenged daughter and the youngest child is about 2½ years old. Therefore, it is his submission that it would be difficult for the applicant to travel to Sangli from Jaysingpur for attending to the court proceedings. There is no dispute that the distance between Sangli and Jaysingpur is barely of 10 to 12 kms. The application however suppresses the fact that the daughter who is mentally challenged has in fact been residing with the respondent and is being looked after by him, with the help of his parents. Mr. Sale, the learned advocate for the respondent submits that when the applicant left the matrimonial home, she took away two children and left the eldest daughter behind. He also points out that in view of Section 9 of Guardian and Wards Act, no court except the court at Sangli will have jurisdiction to entertain the application under Section 8 of the Guardians and Wards Act. This is because the minor is an ordinary resident of Sangli. Therefore the application filed for transfer of the proceedings under the Guardians and Wards Act is not maintainable. As regards transfer of other proceedings, considering the distance between the two places and the fact that the applicant has to attend the Court at Sangli for the proceedings under the Guardians and Wards Act, there is no need to transfer of the proceedings. Hence, the application is dismissed.

(Smt. R.P. SondurBaldota, J.)