

ingale

IN THE HIGH COURT OF JUDICATURE AT MUMBAI

CIVIL APPELLATE JURISDICTION

MISC. CIVIL APPLICATION NO. 63 OF 2014

Mrs.Noushadbee Firoz Khan Pathan .. Applicant

Vs.

Mr.Firoz Khan Gauskhan Pathan .. Respondent

Mr.Ashok Toraskar, Advocate for the Applicant.

CORAM : R. G. KETKAR, J.

DATE : 30th MARCH, 2015P.C. :

. Herd Mr.Ashok Toraskar, learned Counsel for the applicant at length.

2. By this application under section 24 of the Code of Civil Procedure, 1908 (for short 'C.P.C.'), the applicant-wife has sought transfer of Regular Civil Suit No. 474 of 2013 filed by respondent in the Court of Civil Judge, Junior Division, Thane to the Court of Civil Judge, Junior Division, Latur. Mr.Toraskar submitted that applicant has instituted Misc. Application No. 161 of 2013 before the Chief Judicial Magistrate, Latur under the Protection of Women from Domestic Violence Act 2005. She has also instituted criminal case under sections 498(A), 323, 504, 506 read with 34 Indian Penal Code before the Chief Judicial Magistrate, Latur. These cases are pending in the Latur Court. The respondent attends these proceedings in the Latur Court.

3. He further submitted that applicant has no independent source of income. She is at mercy of the parents. Due to old age and ill-health of parents, it is difficult for her to make both ends meet. He further submitted that distance between the Akola and Thane is more than 500 k.m. and it is inconvenient for the applicant to attend the proceedings in Thane Court. He further submitted that there is no one to accompany her to attend the Court at Thane. The applicant is unable to come alone to Thane to attend the Court as there are constant threats on her life. Mr.Toraskar submitted that by notice dated 27/06/2014, notice for final disposal was issued. He submitted that notice is duly served on the respondent. Despite service, none appears for the respondent, no reply is filed opposing the application.

4. Mr.Toraskar relied upon following decisions.

- i) Anisha Sanjay Hinduja Vs.Sanjay Shrichand Hinduja, 2003(3) Mh.L.J. 139.
- ii) Sumita Singh Vs. Kumar Sanjay and Anr. AIR 2002 SC 396.
- iii) Anita Balkrishna Barge Vs. Balkrishna Sopan Barge, 2011 (1) Mh.L.J. 518.
- iv) Chaya Balaji Birajdar Vs. Balaji Ishwarrao Birajdar, 2011 (2) Mh.L.J. 44.
- v) Sunita w/o Baliram Pande Vs.Baliram Haribhau Pande, 2012 (2) Mh.L.J.143.
- vi) Vijaya Sachin Anurkar (Gurav) Vs. Sachin Vasantrao Anurkar (Gurav), 2012(5) Mh.L.J. 721.
- vii) Sonal Prafull Wani Vs.Prafull Sadashiv Wani, 2012 (5) Mh.L.J. 797.

viii) Shreya Prashant Agale Vs. Prashant Prakash Agale,
2012(5) Mh.L.J. 943

5. As noted earlier, though sole respondent is duly served, none appears on his behalf. No affidavit in opposition is filed. For the reasons stated in the application which are not controverted as also in view of the decisions referred hereinabove, I am satisfied that applicant has made out a case for transferring the proceedings from the Court of Civil Judge, Junior Division, Thane to the Court of Civil Judge, Junior Division, Latur. Hence, Misc. Civil Application is allowed in terms of prayer clause (d) with no order as to costs.

6. As the respondent did not appear in this proceedings, after the transfer is effected, the learned Civil Judge, Junior Division, Latur will issue notice to the respondent and thereafter proceed with the matter in accordance with law. All the parties including Civil Judge, Junior Division, Thane to act upon authenticated copy of this order and transfer the Record and Proceedings of Regular Civil Suit No. 474 of 2013 to the Civil Judge, Junior Division, Latur forthwith. Order accordingly.

(R. G. KETKAR, J.)