

IN THE HIGH COURT OF JUDICATURE AT MUMBAI
CIVIL APPELLATE JURISDICTION
MISCELLANEOUS CIVIL APPLICATION NO.123 OF 2014

Malti @ Sumedha Sudhir Halgekar ... Applicant
Vs.
Sudhirrao Laxmanrao Halgekar ... Respondent

Mr. Kuldeep U. Nikam for Applicant.

CORAM : R. G. KETKAR, J.
DATE : 18TH MARCH, 2015

P.C. :

Heard Mr. Nikam, learned Counsel for applicant.

2. By order dated 08.08.2014, notice was issued for final disposal, returnable on 06.10.2014. Office remark shows that the applicant has filed affidavit of service on 12.09.2014 along with the acknowledgment. In view of the order dated 08.08.2014, I have heard Mr. Nikam at length. Despite service, none appears for the respondent. No reply is filed opposing the application.

3. By this application under Section 24 of the Code of Civil Procedure, 1908, the applicant-wife has sought transfer of H.M.P.No.15 of 2012 pending before the Court of Civil Judge, Senior Division at Gadhinglaj to the Court of Civil Judge, Senior Division, Sangli.

4. Mr. Nikam submitted that the applicant is staying at her sister's place at Miraj. She is not gainfully employed. The financial condition of the applicant and her parents is very critical. He further submitted that there are continuous threats / harassment calls / messages from the respondent.

5. Mr. Nikam submitted that the applicant has instituted complaint before the learned Magistrate at Miraj under the provisions of Protection of Women from Domestic Violence Act, 2005. The learned Magistrate allowed the complaint on 15.10.2011. Aggrieved by that order, respondent has filed Criminal Appeal No.384 of 2011 before the Sessions Court, Sangli. The said Appeal is pending. He submitted that the respondent has instituted Petition under Section 9 of the Hindu Marriage Act, 1955 before the Court of Civil Judge, Senior Division, Gadhinglaj. For the reasons stated in paragraphs 2 to 7, he submitted that the applicant has made out a case for transferring the proceedings from Gadhinglaj Court to Sangli Court.

6. In support of these submissions, he also relied upon the following decisions:

- a) **Anisha Sanjay Hinduja Vs Sanjay Shrichand Hinduja**, 2003 (3) *Mh.L.J.*139;
- b) **Sumita Singh Vs. Kumar Sanjay and Anr**, AIR 2002 SC 396;
- c) **Anita Balkrishna Barge Vs. Balkrishna Sopan Barge**, 2011 (1) *Mh.L.J.* 518;
- d) **Chaya Balaji Birajdar Vs. Balaji Ishwarrao Birajdar**, 2011 (2) *Mh.L.J.* 44;
- e) **Sunita Baliram Pande Vs. Baliram Haribhau Pande**, 2012 (2) *Mh.L.J.* 143;
- f) **Vijaya Sachin Anurkar (Gurav) Vs. Sachin Vasantrao Anurkar (Gurav)**, 2012 (5) *Mh.L.J.* 721;
- g) **Sonal Prafull Wani Vs. Prafull Sadashiv Wani**, 2012 (5) *Mh.L.J.* 797; and
- h) **Shreya Prashant Agale Vs. Prashant Prakash Agale**, 2012(5) *Mh.L.J.* 943.

7. 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 paragraphs 2 to 7 of the application, which are not

controverted and in the light of decisions referred to above, I am satisfied that the applicant has made out a case for granting relief in terms of prayer clause (a). Hence, Miscellaneous Civil Application is allowed in terms of prayer clause (a).

8. Proceedings of H.M.P. No.15 of 2012 instituted by the respondent in the Court of Civil Judge, Senior Division, Gadhinglaj shall stand transferred to the Court of Civil Judge, Senior Division, Sangli. All the parties including the learned Civil Judge, Senior Division, Gadhinglaj will act upon authenticated copy of this order and shall transmit the records and proceedings of H.M.P. No.15 of 2012 to the Court of Civil Judge, Senior Division, Sangli. Since the respondent has not appeared before this Court despite service, the learned Civil Judge, Senior Division, Sangli will issue notice to the respondent herein and thereafter proceed with the matter in accordance with law.

(R. G. KETKAR, J.)

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