

IN THE HIGH COURT OF JUDICATURE AT MUMBAI
CIVIL APPELLATE JURISDICTION
MISCELLANEOUS CIVIL APPLICATION NO.254 OF 2014

Deepali Dinesh Wankhede	...	Applicant
Vs.		
Dinesh Pralhadrao Wankhede	...	Respondent

Ms Reshma Apte i/b. Mr. Samarth S. Karmarkar for Applicant.

CORAM : R. G. KETKAR, J.
DATE : 7TH APRIL, 2015

P.C. :

Heard Ms Apte, learned Counsel for the applicant at length.

2. By this Application under Section 24 of the Code of Civil Procedure, 1908, the applicant-wife has prayed for transfer of H.M.P.No.113 of 2013 pending in the Court of Civil Judge, Senior Division, Khamgaon, District Buldhana to the Family Court at Bandra, Mumbai.

3. In support of this Application, Ms Apte submitted that the applicant is residing at Mumbai along with her parents. The distance between Mumbai and Khamgaon is approximately 600 Kms. The applicant's father is a senior citizen and is suffering from various ailments. Her brother is located at Ratnagiri. In these circumstances, it is not possible for any male member to escort her from Mumbai to Khamgaon. She further submitted that applicant has filed Petition under Section 125 of Code of Criminal Procedure, 1973 being Petition No.E-500/2010 in the Family Court at Bandra, Mumbai. Respondent-husband has been attending the said proceedings at Bandra. She, therefore, submitted that for the reasons stated in paragraph 4 of the application, the proceedings deserve to be transferred from Khamgaon Court to

Family Court at Bandra. In support of these submissions, she has relied upon 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.

4. By order dated 19.12.2014, notice for final disposal was issued to the respondent. Office remark shows that respondent is duly served. Respondent has neither entered appearance nor filed affidavit opposing the application. For the reasons stated in paragraph 4 of the application as also having regard to the fact that applicant has maintain 6 years old child, in my opinion, applicant has made out a case for transfer of proceedings.

5. In view thereof, Miscellaneous Civil Application is allowed in terms of prayer clause (a) with no order as to costs. Proceedings of H.M.P.No.113 of 2013 pending in the Court of Civil Judge, Senior Division, Khamgaon, District Buldhana are transferred to the Family Court at Bandra, Mumbai. Since the respondent has not appeared before this Court despite service, the learned Judge of Family Court at Bandra, Mumbai will issue notice to the respondent herein and thereafter

proceed with the matter in accordance with law. All the parties including the learned Civil Judge, Senior Division, Khamgaon to act upon the authenticated copy of this order. Order accordingly.

(R. G. KETKAR, J.)

Minal Parab