

Smt.Swati Rahul Dalvi ... Applicant

Vs.

Shri Rahul Arun Dalvi ... Respondent

Mr. Amol D. Joshi, Advocate for Applicant.

Mr. Vishwanath S. Talkute, Advocate for Respondent.

CORAM : R. G. KETKAR, J.

DATE : 18/04/2015

P.C. :

1. Heard Mr. Amol Joshi, learned Counsel for the applicant and Mr. Vishwanath Talkute, learned counsel for the respondent.
2. By this application under Section 24 of the Code of Civil Procedure, 1908, the applicant-wife has sought transfer of M.P.No.342 of 2014 filed by the respondent-husband from the Court of Civil Judge, Sr. Dn., Satara to the Court of Civil Judge, Sr. Dn, at Kalyan.
3. In support of this Application, Mr. Joshi submitted that the applicant is not gainfully employed. She has no source of income. Her father is a retired employee and the mother is a house-wife. The applicant and her family does not have any source of income and are maintaining their livelihood on the basis of whatever savings made by her father. He further submitted that distance between Satara and Ulhasnagar is not less than 375 kms. She will have to bear expenses of

not less than Rs.800/- for attending proceedings at Satara Court. Her father is a senior citizen and distance between Satara and Ulhasnagar can be covered within 7 hours. Apart from that, he submitted that the applicant has instituted Misc. Application No.126.. of 2014 against the respondent under the provisions of Protection of Women from Domestic Violence Act, 2005 in the Court of Judicial Magistrate First Class at Ulhasnagar. He, therefore, submitted that it will be inconvenient for her to attend proceedings in Kalyan Court which is very close to the J.M.F.C. Court at Ulhasnagar.

4. On the other hand, Mr. Talkute opposes this application and invited my attention to affidavit-in-reply filed on behalf of the respondent. In particular, in paragraph 3 it is stated that the respondent is working as a Clerk (Exam.Division) in Dr.D.Y.Patil College, Pune on a temporary basis. He will not be in a position to avail requisite leave for attending the proceedings in Kalyan Court instead of Satara. If he is forced to attend proceedings at Satara, there is possibility of losing his job. As against this, the applicant is not required to attend each and every date of hearing and can instruct her Advocate. He further submitted that witnesses are of Satara. As far as traveling expenses are concerned, the respondent will bear the expenses. In any case, he submitted that the relief claimed by the applicant in the proceedings under the Domestic Violence Act can also be prayed for in other legal proceedings as per Section 26 thereof. For all these reasons, he

submitted that no case is made out for transferring the proceedings from Satara Court to Kalyan Court.

5. I have considered the rival submissions made by the learned counsel appearing for the parties. I have also perused the material on record. It is evident that the applicant is not gainfully employed. She does not have any savings. Her father is a retired employee. Distance between Satara and Ulhasnagar is about 375 kms. Even if the respondent is ready and willing to bear travelling expenses, one has to consider convenience of the wife. Having regard to the fact that the applicant has also instituted proceedings under the Domestic Violence Act in J.M.F.C. Court at Ulhasnagar and for the reasons stated in the application, I am satisfied that the applicant has made out the a for transferring the proceedings from Satara Court to Kalyan 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. In the light of decisions referred to above, I am satisfied that the applicant has made out a case for transfer of proceedings of M.P.No.342 of 2014. Hence, Miscellaneous Civil Application is allowed and proceedings of H.M.P. No.342 of 2014 filed by the respondent in the Court of Civil Judge, Senior Division, Satara shall stand transferred to the Court of Civil Judge, Senior Division, Kalyan.

8. Liberty is reserved to the respondent to adopt appropriate proceedings for clubbing proceedings filed by the applicant with this proceeding, if they are permissible under law. Parties are even at liberty to make joint application.

All the parties including the learned Civil Judge, Senior Division, Satara will act on the authenticated copy of this order and shall transmit records and proceedings of H.M.P. No.342 of 2014 to the Court of Civil Judge, Senior Division, Kalyan.

(R.G.KETKAR,J.)