

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

MISCELLANEOUS CIVIL APPLICATION NO.39/2015

Sau. Radhika Rahul Jain

..Versus..

Rahul s/o Rajkumar Jain

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

CORAM : Z.A. HAQ, J.

DATE : 26.10.2015

Heard Shri C.A. Joshi, learned advocate for the applicant (wife)
and Shri R.D. Wakode, learned advocate for the non-applicant
(husband).

The applicant (wife) has filed this application under Section 24
of the Code of Civil Procedure praying that the Petition No.A-259/2013
filed by the non-applicant (husband) pending before the Principal
Judge, Family Court at Amravati be transferred to the Court of Civil
Judge, Senior Division, Pusad.

The undisputed facts are :

The non-applicant (husband) filed petition under Section 12(1)
(a) and (c) of the Hindu Marriage Act seeking annulment of marriage

solemnized between the parties on 6th January, 2013. This petition is filed on or about 28th November, 2013.

The applicant (wife) filed proceedings under Section 125 of the Code of Criminal Procedure seeking maintenance from the non-applicant (husband). These proceedings are filed at Pusad on or about 24th April, 2014.

The applicant (wife) filed Regular Civil Suit No.86/2014 at Pusad praying for decree for the amount of maintenance, as stated in the plaint. The civil suit is filed on or about 29th April, 2014.

The applicant (wife) filed petition under Section 9 of the Hindu Marriage Act praying for restitution of conjugal rights. This petition is filed at Pusad on 22nd April, 2014.

The contention on behalf of the applicant (wife) is that the non-applicant (husband) is in employment at Mumbai and the proceedings are filed by the non-applicant (husband) at Amravati only to harass the applicant. It is submitted that looking to the facts of the case, it would be appropriate that the proceedings filed by the non-applicant (husband) at Amravati are transferred to the appropriate Forum at Pusad. It is submitted that the distance between Amravati and Pusad is about 160 kilometers and the applicant is required to

take her father or mother along with her and she is required to spend Rs.1,000/- for the journey and if the applicant goes by private vehicle she is required to spend about Rs.3,000/- per trip. It is stated that if the proceedings filed by the non-applicant at Amravati are transferred to Pusad, it would be convenient for the applicant and it would not cause any inconvenience to the non-applicant inasmuch as the non-applicant can attend the Court at Pusad instead of Amravati whenever he is required to attend the Court. It is submitted that the non-applicant has to come from Mumbai to attend the proceedings and it will not make much difference if he attends the proceedings at Pusad instead of Amravati.

In support of submission, learned advocate for the applicant has relied on the judgment given by this Court in the case of *Sau. Vijaya Sachin Anurkar (Gurav) V/s. Sachin Vasantrao Anurkar (Gurav)* reported in **2013 (1) ALL MR 181**.

After considering the facts of the present case, I am not inclined to accept the prayer made on behalf of the applicant for transferring the proceedings filed by the non-applicant at Amravati, to Pusad. In the case of *Sau. Vijaya Sachin Anurkar (Gurav) V/s. Sachin*

Vasantrao Anurkar (Gurav) (cited supra), the wife had filed proceedings at Jalgaon and subsequently the husband filed divorce petition at Pune and in these facts, this Court directed transfer of the proceedings which were filed subsequently by the husband at Pune, to the Court at Jalgaon. In the present case the facts are otherwise. The applicant (wife) has filed three proceedings within one week at Pusa, after about 5 months of the filing of the petition by the non-applicant (husband) at Amravati.

The application filed by the applicant (wife) is dismissed. However, it is directed that the non-applicant (husband) shall pay Rs.1,000/- (Rs. One Thousand Only) to the applicant (wife) on the dates on which she attends the proceedings at Amravati.

JUDGE