

drp

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

MISCELLANEOUS CIVIL APPLICATION NO.104 OF 2016

Shaheen Begum w/o Syed Ajaj
Age – 30 years, Occ – Household
R/o Kalababar, Near Masjid,
Parbhani

APPLICANT

VERSUS

Syed Ajaz s/o Syed Kamal
Age – 41 years, Occ – Service in
Ayurvedic Hospital, Nanded
R/o Near Water Tank,
Siddhanthpuri, Chowpala,
Nanded

RESPONDENT

.....

Mr. Shaikh Wajeed Ahmed, Advocate for the applicant
Mr. B. G. Deshmukh, Advocate for respondent

.....

[CORAM : SUNIL P. DESHMUKH, J.]

DATE : 8th SEPTEMBER, 2016

ORAL JUDGMENT :

1. Rule. Rule made returnable forthwith and heard finally with consent of learned advocates for the parties.
2. Learned advocate for the applicant submits that the applicant is passing through a very lean phase of life. Her in laws had ill-treated and ousted her and since then she is staying in Parbhani with her age old mother. She has lost her father long

back and is looked after by her brother, who is in service. As such, there is no one who could escort her to Nanded, which is at a distance of about 70 km from Parbhani. He submits that with great difficulty she could appear in the proceedings at Nanded and engaged an advocate, however the same has become unbearable now and it is expensive which her economic conditions are not permitting to undertake the expenses of the litigation. Besides the difficulty in attending the court proceedings, day to day, it is being submitted on behalf of the applicant that although the respondent has given his evidence, it will be difficult for the applicant to give evidence on her behalf. He submits that the applicant even could not cross examine the witness examined on behalf of the respondent and "no cross" order has been passed. Having regard to the overbearing position of law, she urges for transfer of proceedings to the court at Parbhani.

3. Learned advocate for the respondent denies all the contentions on behalf of the applicant stating that it is a matter of day or two that the applicant would be required at Nanded. In the circumstances, no fruitful purpose is likely to be served by transfer of the proceedings. He further submits that the proceedings are instituted for restitution of conjugal rights.

4. Though learned advocate for the respondent submits so, he is not in a position to dispute that mother of the applicant is an age old lady and her father is no more and that a small child is to be carried by the applicant and also further that an escort would be required.

5. Having regard to aforesaid, and looking at the overall situation, I deem it appropriate that the proceedings be transferred to Parbhani and should be taken on such dates as would be convenient to the respondent. In view of aforesaid, the Miscellaneous Civil Application is allowed and stands disposed of. Rule is made absolute in terms of prayer clause "B".

6. Having regard to the stage at which the proceedings are being transferred, it is expected that the court at Parbhani would proceed with the matter expeditiously and dispose of the same as far as possible within a period of four months from the date of receipt of writ of this order.

[SUNIL P. DESHMUKH, J.]