

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

916 MISC.CIVIL APPLICATION NO. 131 OF 2014

SWATI SHAILENDRA GAIKWAD
VERSUS
SHAILENDRA BALASAHEB GAIKWAD

Shri. Vijay B. Patil, Advocate, for applicant.

Shri. N.V. Gaware, Advocate, for respondent.

CORAM: T.V. NALAWADE, J.

DATE : 14 JULY 2016

ORDER:

1) The application is filed by the wife for transfer of P.A. No.304/2012 presently pending in Family Court Pune to the Court of the Civil Judge Senior Division Jalgaon. Heard both the sides.

2) It is the case of the applicant that she is resident of Jalgaon and the husband has filed the proceeding for divorce in the Court at Pune. It is her case that the distance between Pune and Jalgaon is around 400 kilometers. It is her case that she has no source of income and she is not able to spend on conveyance and attendant.

It is her case that after filing of the divorce proceeding by the husband she has filed proceeding like Hindu Marriage Petition under section 9 of the Hindu Marriage Act and the proceeding under the Protection of Women from Domestic Violence Act in the Courts from Jalgaon and in any case the husband will be required to come to Jalgaon to contest those proceedings and so no inconvenience will be caused to him if all the matters are brought at one and the same station.

3) The husband has opposed the application by contending that the parents of the wife are residents of Ahmednagar but only to harass the husband she is seeking transfer of the matter to the Court from Jalgaon. It was submitted for the husband that the husband is required to take care of his old and ailing parents. It was submitted that the husband is in private service and his career prospects will be affected if he is required to take leave time and again. It was submitted that the husband is ready to spend for conveyance and attendant etc. if the matters are kept at Pune or the matter is transferred to Ahmednagar.

4) Learned counsel for the husband placed reliance on the cases reported as (1) **AIR 1979 SC 1514 (Indian Overseas Bank Madras v. Chemical Construction Company)** and (2) **I (2001) DMC 156 (Sudha v. Vaidyanathan)** and submitted that in view of the guidelines given in the aforesaid cases present proceeding cannot be allowed in favour of the wife.

5) Facts and circumstances of each and every case are always different. Though the proceedings filed by the wife are subsequent to the filing of the proceeding by husband, fact remains that the husband will have to attend the Court from Jalgaon to contest the proceedings filed by the wife. It is not disputed that father of the wife is retired though her mother is in service in Ahmednagar district. It is the case of the wife that she has shifted to Jalgaon where her maternal uncle is living and she has taken residence there. There is no reason to disbelieve the wife as she will be also harassed if she is resident of Ahmednagar and she will be required to go to Jalgaon due to transfer order.

6) In view of the aforesaid circumstances this Court holds that the application needs to be allowed. In the result, the application is allowed. Proceeding No. P.A. 304/2012 (Shailendra Balasaheb Gaikwad v. Swati Shailendra Gaikwad) presently pending in the Family Court Pune is hereby withdrawn from that Court and is transferred to the Court of the Civil Judge, Senior Division, Jalgaon. The new Court to take care and see that the date of the present matter matches with the date of the matters filed by the wife in the Courts from Jalgaon so that no inconvenience is caused to the husband. The new Court to expeditiously dispose of the matter and in any case within five months from the date of receipt the record from the previous Court. There will be liberty to the husband to seek transfer of the proceeding filed by the wife under Domestic Violence Act from the Court from Jamner to the Court from Jalgaon so that all the matters are brought to one and the same station.

Sd/-
(T.V. NALAWADE, J.)

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