

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

MISCELLANEOUS CIVIL APPLICATION NO. 138 OF 2014

Rupali w/o Kailash Shinde
Age 24 years, occupation: Household,
Residing at c/o Sanjay Dattatray kshirsagar,
Plot No. 33, House No.6, Akansha Housing
society, Mathura Nagar, N-6, CIDCO,
Aurangabad Applicant / Wife

versus

Kailash s/o Dadasaheb Shinde,
Age 28 years, occup. Barber,
Residing: Besides Maheshwari Mangal
Karyalay, Jadhav Galli, Oppo. To
Lokhande Kirana Store, Gangapur,
Taluka Gangapur, Dist. Aurangabad Respondent/
Husband

Mr. K. H. Surve, Advocate for applicant
Mr. N.J. Pahune Patil, Advocate for respondent

CORAM : SUNIL P. DESHMUKH, J.
1ST FEBRUARY, 2016

ORAL JUDGMENT:

1. Rule. Rule made returnable forthwith. Heard the parties
finally, by consent.

2. Applicant is wife and respondent is husband. Marriage between them took place in 2012. After marriage, the couple was blessed with a child named Preetam in December, 2013. However, after birth of the child the situation deteriorated and husband and wife started residing separately. Wife along with child resides at Aurangabad with parents. Wife has also initiated proceedings for maintenance in July, 2014 in the family court, Aurangabad. Thereafter, it is contended by applicant, that husband instituted proceedings for restitution of conjugal rights in the court of Civil Judge, Senior Division, Vaijapur, under section 9 of the Hindu Marriage Act, 1955. In the circumstances, wife is before this court seeking transfer of said conjugal rights proceedings filed by husband in the court at Vaijapur to the family court at Aurangabad.

3. It is being contended on behalf of applicant that it becomes cumbersome for her to travel to Vaijapur along with child for attending proceedings filed by husband. Further, her economic condition is also not well and has also to nurture and maintain the child. She is not in a position to attend the proceedings filed by husband in the court at Vaijapur and as such seeks transfer of said proceedings to the family court at Aurangabad to be tried along with maintenance proceedings filed by her.

4. Veracity of aforesaid situation could not be disputed by the respondent.

5. In the circumstances and having regard to amendment to section 19 of the hindu marriage Act, it would be just and proper to transfer the proceedings for conjugal rights initiated by husband in the court at Vaijapur to the family court at Aurangabad.

6. As such, rule is made absolute in terms of prayer clause (B) of application. Miscellaneous Civil Application stands disposed of. It is expected that both the proceedings in family court at Aurangabad would be taken up for expeditious disposal.

SUNIL P. DESHMUKH, J.

pnd