

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

Ashwini w/o Rameshwar Panchal Bamnikar APPLICANT
Age - 25 years, Occ - Household
R/o C/o Gangadhar Dattatraya Panchal,
Behind Laxmi Saw Mil, Pawannagar,
Malegaon Road, Taroda (Kh)
Nanded, District - Nanded

Rameshwar s/o Pralhad Panchal Bamnikar RESPONDENT
Age - 30 years, Occ - Furniture Business,
R/o Survey No. 165, Adarsh Vasahat,
Near Mama Tuppe, Malwadi,
Hadapser, Pune - 28

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DATE : 11th JANUARY, 2017

1. Rule. Rule made returnable forthwith and heard finally with consent of learned advocates for the parties.
2. The Miscellaneous Civil Application has been moved seeking transfer of proceedings bearing HMP No.1146 of 2014 instituted by respondent - husband for dissolution of marriage between the parties in Family Court at Pune to the Family Court at Nanded.

3. Learned advocate for the applicant Mr. Kadam contends that distance between Pune, where the proceedings have been initiated by the respondent and Nanded where the applicant is presently residing, is about 450 km. The applicant is not in a position to undertake journey on each and every date to attend proceedings before the Family Court at Pune and further contends that it can be amply borne out from the fact that after giving power to an advocate at Pune, the applicant could not prosecute the matter any further and as such, the matter was proceeded with *ex-parte* against her and in the circumstances it appears, the matter has progressed further and the applicant has been required to file an application for setting aside "*no evidence order*". He submits that the applicant - wife has no source of income worth the name. Besides, the applicant has filed proceedings in Family Court at Nanded for restitution of conjugal rights, which are pending and are being attended to by the respondent. As well, there are proceedings pending under the Domestic Violence Act against the respondent - husband, which too are being attended to by him at Nanded.

4. Mr. Chandole, learned advocate appearing for the respondent - husband states that the proceeding initiated by

respondent - husband in Family Court at Pune has reached almost final stage, wherein except arguments all other stages are over and as such, the matter can be disposed of within a day, after hearing the parties. He submits that the present application is hit by laches and no indulgence be given to the applicant.

5. Although the submissions are advanced on behalf of the respondent as above, the submissions on behalf of the applicant appear to carry lot of force and weight. In any case, it is wife's convenience, which will have to be seen. Even otherwise, wife has applied for setting aside 'no evidence order' against her and the same is pending. In the circumstances, it would be expedient to indulge into the request made under the Miscellaneous Civil Application.

6. In view of aforesaid, the Miscellaneous Civil Application is allowed. Rule is made absolute in terms of prayer clause "C". The Miscellaneous Civil Application stands disposed of. Proceedings between the parties at Nanded be proceeded with as expeditiously as possible.

[SUNIL P. DESHMUKH, J.]