

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

MISC. CIVIL APPLICATION NO. 24 OF 2017

Sow. Rohini w/o Sagar Mote
Age : 26 Years., Occ. : Nil,
R/o : C/o Tanaji Gorakshnath
Jadhav, R/o : Sangvibhusar,
Tq. Kopargaon, District :
Ahmednagar.

..... APPLICANT

V E R S U S

Sagar Madanrao Mote
Age : 31 Yrs., Occ. Business
& Agri., R/o : Chalisgaon,
Ganesh Road, Kadgaon Road,
Tq. Chalisgaon, District :
Jalgaon.

..... RESPONDENT

.....

Mr. V.H.Dighe, Advocate for Applicant.

Mr. P.P.Dhorde, Advocate for Respondent.

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CORAM : SUNIL P. DESHMUKH, J.

DATE OF JUDGMENT : 15th FEBRUARY, 2017

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ORAL JUDGMENT :

1. Rule. Rule made returnable forthwith. Heard the learned counsel for the parties finally by consent.

2. Present Miscellaneous Civil Application has been moved for transfer of H.M.P.No. 479/2016 from the court of the Civil Judge [Sr.Division], Jalgaon to the competent court at Kopergaon.

3. After hearing the learned counsel, it surfaces that applicant/wife had moved maintenance proceedings u/s 125 of the Code of Criminal Procedure at Kopergaon which was being attended to by the respondent/husband and an order came to be passed in the same around March, 2016. The respondent/husband has against said order moved Criminal Revision No. 28/2016 before the Sessions court at Kopergaon, which is pending. Further, it appears that one more proceeding having been prosecuted by the applicant at Kopergaon under the provisions of the Protection of Women from Domestic Violence Act, 2005 [for short, 'Domestic Violence Act'] which too was attended by to the respondent/husband.

4. It appears that in September, 2016, H.M.P. No. 479/2016 has been moved by the

respondent/husband at Jalgaon. Learned counsel for the applicant refers to that although a statement has been appearing in this application about appearance of the applicant in the said proceeding, however, it transpires that due to certain unavoidable events, it could not be caused rendering said statement to be inaccurate. There is no intention underlying the same. No benefit either is derived in the process. The statement is unintentional and an inadvertent mistake. Learned counsel further assures that on the next date i.e. 27/02/2017 appearance would be caused on behalf of the applicant in the said proceedings at Jalgaon.

5. Learned counsel for the applicant further contends that Jalgaon is placed at farther distance from Kopergaon than Chalisgaon. The distance between Kopergaon and Chalisgaon is about 100 Kms. and that between Chalisgaon and Jalgaon is about 104 Kms. Under the circumstances, he purports to contend that about 400 Kms. distance will have to be travelled in case if she is required to attend the proceedings at Jalgaon. It is submitted that financially it is very difficult for the applicant to bear the expenses involved apart from travelling. She does not have any economical support,

save and except the nominal income of maintenance. There is nobody to accompany her and she is having two (2) children. Learned counsel further contends that the respondent/husband had been prosecuting Revision at Kopargaon. In the circumstances, it may not be inconvenient for him to attend the proceedings on transfer at Kopargaon.

6. Learned counsel for the respondent/husband contends that a statement with regard to appearance has been casually made in the body of the proceedings about the appearance in the court at Jalgaon, gives an indication to a large extent that the applicant's overall approach is casual and non-serious and no indulgence to such person would be warranted. Apart from aforesaid, learned counsel submits that the applicant had hardly been with the respondent for about 50 days after the marriage and thereafter had been arraigned the respondent and his relatives in one litigation or the other and has been harassing them. He, opposes the request made by the applicant.

7. Taking into account the aforesaid submissions, it may have to be considered that the contentions on

behalf of the applicant about the difficulties those would be faced in attending the proceedings at Jalgaon, to a large extent go uncontroverted. The factual aspect about the distance to and fro expressed by the applicant would hardly amenable to dispute. Learned counsel for the respondent contends that the applicant is highly educated and she is earning ₹ 15,000/- to ₹ 20,000/-. Yet, the decisions in two (2) proceedings give an indication that economic capacity as expressed by the applicant and the other circumstances pose a sort of impediment for her to prosecute the proceedings at Jalgaon. The respondent is already prosecuting one litigation at Kopargaon.

8. As such, it appears to be expedient and as convenience leans in favour of the applicant, that Miscellaneous Civil Application be allowed. In the circumstances, miscellaneous civil application stands allowed in terms of prayer clause 'B' and is disposed of. It is expected that dates will be so arranged on transfer as would be convenient to respondent herein and the matter would be disposed of as expeditiously as possible.

[SUNIL P. DESHMUKH, J.]