

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

MISCELLANEOUS CIVIL APPLICATION NO. 87 OF 2016

Shital w/o Pramod Mete
Age : 25 years, occup. Nil,
R/o Khed, Tq. & Dist. Osmanabad,
At present: 1964, Shrikrishna Co-op.Society,
Subhash Nagar, Kalyan, Road, Bhivandi .. Applicant

versus

Pramod s/o Anna Mete,
Age: 31 years, occup. Agril. & business,
R/o Khed, Tq. & Dist. Osmanabad .. Respondent

Mr. Vilas P. Savant, Advocate for applicant
Mr. S. T. Veer, Advocate for respondent

CORAM : SUNIL P. DESHMUKH, J.
DATE : 21st February, 2017

ORAL JUDGMENT :

1. Rule. Rule made returnable forthwith.
2. Heard learned counsel for the parties by consent finally.
3. This miscellaneous civil application by wife seeks transfer of once concluded but on remand pending, divorce proceedings by husband at Osmanabad to a court at Bhivandi.
4. It is being claimed by applicant-wife that distance between Osmanabad and Bhivandi is about 500 kilometers and looking at circumstances and she being a young lady and

also her father's economic condition being not good, it is not possible for them to be frequently at Osmanabad to prosecute the proceedings initiated by respondent-husband for divorce. It is further being submitted that the applicant has already filed domestic violence case at Bhivandi. It is, thus, requested that it would be proper to transfer divorce proceedings at Bhivandi from Osmanabad.

5. Learned counsel appearing on behalf of respondent submits that the request now being made for transfer of divorce proceedings initiated by respondent would not be legitimate and is not proper. He submits that said proceedings had been decreed, however, in the appeal at the instance of present applicant, the same have been remanded for the reason that the present respondent-applicant in divorce proceedings could not pay interim maintenance during pendency of the proceedings in the trial court. According to him, that is the major reason weighed while passing the order of remand. He submits that during the course of trial, evidence had been led on either side and the decision had been rendered, however, appellate court has remanded the matter since it considered that the trial court had committed an error in proceeding with the suit inspite of failure of respondent to pay maintenance. He further submits that as a

matter of fact, respondent's economic position is not good. According to him, the court has already considered that he is not in a position to earn more than ₹ 200/- per day and in the circumstances, while the genesis of the litigation relates to Osmanabad, just for the reason that the applicant now desires to have the proceedings pending at Osmanabad transferred to Bhivandi, it would not be proper to consider the request. He further submits that the directions of the appellate court have already been followed and requisite amount has already been deposited. He further submits that the case is almost ripe for hearing save and except, additional evidence that may be required to be given on either side in the trial court in addition to the one which is already on record.

6. Having regard to aforesaid submissions, it appears to be expedient that instead of transferring the proceedings, difficulties which are claimed to be faced by the respondent can, to an extent, be alleviated by directing respondent-husband to pay certain amount to the applicant – wife which would enable her along with some person to be at Osmanabad for the purpose of leading evidence and arguing out the case.

7. Looking at the financial condition of the parties as contended, it may be proper to quantify amount at ₹ 12,500/- in aggregate to be paid by respondent-husband to the applicant-wife for prosecution of the matter in the trial court at Osmanabad. The amount be deposited in the trial court by husband for payment to the applicant-wife. The trial of the proceedings at Osmanabad be concluded and decision thereon be rendered within a period of four months from the date of receipt of writ of this order.

8. With directions as aforesaid miscellaneous civil application stands disposed of. Rule made absolute accordingly.

9. Needless to refer to that there are no observations on the merits of case before the trial court and no curbs are placed on exercise of its powers.

SUNIL P. DESHMUKH,
JUDGE

pnd