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

MISC. CIVIL APPLICATION NO. 129 OF 2016

Jyoti w/o Jitendra Deshmukh,
Age: 32 years, Occ: Household,
R/o. C/o. Digambar Bibrale,
Walanki, Post. Mukarambad,
Tq. Mukhed, Dist. Nanded ..APPLICANT

VERSUS

Jitendra s/o Hanmantrao Deshmukh,
Age: 42 years, Occ: Service,
R/o. C/o. Jain, Old Ausa Road,
Latur, Tq. & Dist. Latur ..RESPONDENT

Mr U.B. Bilolikar, Advocate for applicant;
Smt. Savita G. Mapari, Advocate for respondent

CORAM : N.W. SAMBRE, J.

DATE : 7th JUNE, 2017

ORAL ORDER :

Parties to the application married on 4th
May, 2003 at Mukramabad, Taluka Mukhed, District
Nanded.

2. Out of matrimonial discord, application
under Section 9 of the Hindu Marriage Act for
restitution of conjugal rights was initiated by

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respondent in the Court of 2nd Joint Civil Judge, Senior Division, Latur, which was allowed on 7th November, 2014.

3. Since this order was not taken to its logical end, respondent moved application being Hindu Marriage Petition No. 164 of 2015 in the Court of Civil Judge, Senior Division, Latur under Section 13(A) of Hindu Marriage Act for decree of divorce, of which the applicant-wife is seeking transfer to the Court of Civil Judge, Senior Division, Mukhed.

4. In the application, the ground is disclosed that the convenience of the applicant is required to be considered, particularly having regard to the distance of 100 kms. in between these two places i.e. Latur and Mukhed. In addition, it is also claimed that respondent-husband is influential person and is likely to influence the proceedings.

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5. While countering the above referred submissions, learned Counsel for the respondent-husband makes a categorical statement that earlier proceedings under Section 9 of the Hindu Marriage Act for restitution of conjugal rights at Latur were attended by the applicant without any prayer for transfer. According to her, her client is ready and willing to deposit amount of Rs.1000/- on each date in the Court of Civil Judge, Senior Division, Latur, to which present applicant will be entitled towards travelling and out of pocket expenses.

6. The proposal offered by learned Counsel for respondent appears to be reasonable one, particularly in the back drop of distance between two places i.e. Latur and Mukhed which is about 100 kms.

7. In the aforesaid back ground, in my opinion, present application needs to be disposed of, with following observations.

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Respondent-husband shall deposit initially amount of Rs.2000/- (Rs. Two thousand only) on the date on which the matter is fixed before the trial Court. Out of which, on the first date, trial Court shall ensure that present applicant gets Rs.1000/- (Rs. One thousand only) towards travelling expenses. Thereafter, on each date, present respondent shall continue to deposit amount of Rs.1000/- (Rs. One thousand only), to which, the applicant will be entitled and the trial Court shall ensure the payment of said amount.

Single default on the part of respondent in depositing the amount will entail the transfer of the matter from the Court of Civil Judge, Senior Division, Latur to the Court of Civil Judge, Senior Division, Mukhed, for which, in my opinion, formal order could be passed by the District Judge, in view of above observations.

8. So far as the contention of applicant that

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the respondent is influential person, the applicant will have every right to move application in such eventuality, if he is able to establish the said conduct of the influencing the applicant in future.

9. Misc. Civil Application stands disposed of with above observations.

(N.W. SAMBRE, J.)

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