

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

MISCELLANEOUS CIVIL APPLICATION NO. 95 OF 2014

- (1) Mrs. Uma w/o Chandrakant Tambe
Age 35 years, occup. dentist,
R/o A. P. Block No. 701/704,
Bldg. "B", Prakruti Co-op. Hsg. Society,
C. T. S. No. 15/2, Balewadi, Pune
- (2) Prasad s/o Chandrakant Tambe,
Age - minor, u/g No. 1.
- (3) Srushti d/o Ram,bhaji Tambe,
Age - minor u/g R. No.1 .. Applicants

versus

Chandrakant s/o Rambhaji Tambe,
Age 41 years, occup. Doctor,
r/o Navin Nagar road, Sangamber,
Dist. Ahemadnagar .. Respondent

Mr. Ajit B. Kadethankar, Advocate for applicants
Mr. S. K. Shinde, Advocate for respondent

CORAM : SUNIL P. DESHMUKH, J.
DATE : 16th January, 2017

ORAL JUDGMENBT :

1. Rule. Rule made returnable forthwith. Heard learned counsel for the parties by consent finally.
2. It transpires that applicant and respondent are dentist by profession. Marriage between them had taken place in 1999 and from the wedlock, two children have been born.

3. Later on, relations between the parties appear to have soured and it led to filing proceedings for divorce by mutual consent. However, subsequently, the proceedings came to be withdrawn on some understanding under which it has been stated that some properties were to be given and gifted in favour of the applicant and one son. Accordingly, it is the contention of learned counsel for applicant, that the gift deed had been executed, however, subsequently, respondent purported to lodge proceedings for cancellation of the gift deed on the ground of fraud and those proceedings are pending at Sangamner, bearing special civil suit no. 31 of 2013.

4. Learned counsel Mr. Kadethankar, for applicant submits that the applicant has to maintain two children and further that it is difficult for her to come over to Sangamner to attend the proceedings filed by respondent and also difficult to manage the affairs and also that her children are taking education at Pune. Learned counsel contends that the applicant's finance would be put under stress if she is compelled to attend the proceedings at Sangamner and as such urges for transfer of proceedings filed by husband at Sangamner to Pune.

5. Learned counsel, additionally contends that the proceedings under Domestic Violence Act initiated and pending at Pune are being attended to by the respondent.

6. Learned counsel Mr. S. K. Shinde, appearing on behalf of husband-respondent contends that the inconvenience as is being contended on behalf of the applicant is not of such a nature that it would make her difficult to attend the proceedings at Sangamner since it would be a matter of a date or two on which evidence would be led and would be over. Additionally, he refers to that the witnesses of the so called gift deed are age-old persons and it would be difficult for them to visit Pune for giving evidence. He further contends that applicant's financial condition is under stress is a specious plea since respondent is paying ₹ 30,000/- per month to the two children. In the circumstances, he seeks indulgence of this court not to get swayed by contentions on behalf of the applicant.

7. Be that as it may, applicant-wife is indisputably staying at Pune and maintaining two children and one of the proceedings between applicant and husband is pending at Pune and the same is being attended to by respondent.

8. The reasons as contended on behalf of the applicant make me lean in her favour, for, those do not appear to be apart from factual position and situation. Further, while it would come to comparative hardship, it would appear that the same would be rather more for applicant than would be faced by respondent.

9. In the circumstances, miscellaneous civil application stands granted in terms of prayer clause (B) and disposed of. The proceedings bearing special civil suit no. 31 of 2013 pending before the court of Civil Judge, Junior Division, Sangamner be transferred to a competent court at Pune. Upon transfer of those proceedings, the proceedings be expedited and be disposed of within a period of nine months from the date of receipt of papers at Pune, on transfer of proceedings from Sangamner court.

10. Rule made absolute accordingly.

SUNIL P. DESHMUKH,
JUDGE

pnd