

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

MISCELLANEOUS CIVIL APPLICATION NO. 163 OF 2016

Rupali w/o Sandeep Nikam

Age 33 years, occupation : At present nil,

R/o C/o Tejrao Laxmanrao Rindhe,

Telecom Housing Society, Bajrang Chowk,

N-6, CIDCO, Aurangabad

.. Applicant

versus

Sandeep s/o Ambadas Nikam

Age - 35 years, occup. - Service [Livestock

Supervisor] R/o C/o District Animal Husbandry

Officer, Near Shani Mandir, Parbhani,

Tq. and Dist. Parbhani

.. Respondent

Mr. Narayan Matkar, Advocate i/b Mr. R. V. Gore, Advocate for
applicant

Mr. Nilkanth R. Pawade, Advocate for respondent

CORAM : SUNIL P. DESHMUKH, J.

DATE : 26th April, 2017

ORAL JUDGMENT :

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

2. This miscellaneous civil application is moved for transfer of proceedings bearing hindu marriage petition no. 65 of 2016 pending before 9th civil judge, senior division, Parbhani to family court, Aurangabad.

3. Learned counsel for applicant submits that the applicant has filed proceedings under section 9 of the Hindu Marriage Act for restitution of conjugal rights in family court at Aurangabad wherein notice has been issued to the respondent. He further refers to that child begotten from the marriage is taking education at Aurangabad. At Aurangabad, applicant along with child is staying with her age-old parents and her brother who is ailing and is suffering a brain injury. The distance between Aurangabad and Parbhani is around 200 kilometers. He submits that Parbhani is not a place convenient for her to attend to the proceedings filed by the respondent. He further contends that the applicant has no income source and has to depend upon her parents.

4. The application is being resisted on behalf of the respondent, stating that respondent is a government servant and has to attend to his job. He is presently posted at Hingoli which is at a distance of about 45 kilometers from Parbhani

and as such it is difficult for him to travel to Aurangabad which may impinge upon his employment. He further contends that the respondent has to look after his old mother who stays with him. In the circumstances, he submits that no indulgence be given to the request being made under the application.

5. Having regard to that the applicant having contended that she has no source of livelihood, she has already lodged certain proceedings against respondent at Aurangabad which may be required to be attended to by the respondent and also to other difficulties likely to be faced by the applicant, so also the difficulties submitted on behalf of the respondent, it appears comparatively it would be convenient for respondent to attend to the proceedings at Aurangabad. At Aurangabad, the proceedings between the parties can be so arranged as would be convenient to respondent.

6. As such, miscellaneous civil application is granted in terms of prayer clause (B).

7. The proceedings at Aurangabad which have been lodged by the applicant and the proceedings at the instance of respondent at Parbhani bearing hindu marriage petition no.

65 of 2016 on transfer to family court at Aurangabad be proceeded with as expeditiously as possible and the dates in the same be so arranged as would be convenient to the respondent.

8. Rule made absolute accordingly.

9. Miscellaneous civil application stands disposed of.

SUNIL P. DESHMUKH,
JUDGE

pnd