

IN THE HIGH COURT OF JUDICATURE OF BOMBAY  
BENCH AT AURANGABAD

WRIT PETITION NO. 8725 OF 2014  
WITH  
CIVIL APPLICATION NO. 14182 OF 2015  
WITH  
CIVIL APPLICATION NO. 8729 OF 2016

ARVIND PRALHADRAO JOGDAND  
VERSUS  
SHARAYU ARVIND JOGDAND

Advocate for Petitioner : Shri B.K. Patil  
h/f Shri V.M. Kagne.  
Advocate for Respondent : Shri M.R. Sonawane.

CORAM : RAVINDRA V. GHUGE, J.  
Dated : 02<sup>nd</sup> August, 2017

PER COURT :

1. The petitioner is aggrieved by the order dated 14/08/2014, by which, Miscellaneous Civil Application (RJE) No. 125/2008, has been rejected by the learned District Judge.
2. Grievance of the petitioner is that the Trial Court could not have dismissed the application because once it concludes that it has no jurisdiction, it should have stayed its hands from this application.

3. I find the above submission to be quite peculiar. After the application was filed by the petitioner/father, the respondent wife came with the stand that as the minor child is residing in Pune, the said application was not maintainable. The petitioner could have forthwith withdrawn the said application since it was filed before the wrong forum and could have tendered an application before the appropriate Court at Pune.

4. This Court in the matter of K. Vidyasagar S/o. Balsubramanyam Pillai Versus Sau. Shobha W/o. Vidyasagar Pillai [2012 (5) Mh.L.J. 805], has concluded that the jurisdiction to entertain an application for seeking custody of a minor child under Section 8 of the Guardian and Wards Act, 1890, could be filed only at the place where the child is residing. This conclusion on territorial jurisdiction clearly rendered the application filed by the petitioner unsustainable. Yet, the petitioner proceeded to prosecute the said application and after the points were framed, the Trial Court rejected the said application by the impugned order. Despite this aspect, the petitioner has approached this Court by filing this petition on

22/09/2014 and still desires to prosecute this petition notwithstanding the crystallized position in law.

4. Considering the above, I do not find that this petition deserves to be entertained. Same, is therefore, dismissed.

5. Pending Civil Applications do not survive and, therefore, stand disposed of.

( RAVINDRA V. GHUGE, J. )

S.P.C.