

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

MISC. CIVIL APPLICATION NO. 179 of 2017

Swati W/o Shrikant Patil,
age 25 years occupation nil
R/o C/o Plot No. 63/B, Wadnere Nagar,
behind Swastik Petrol Pump, Shahada
Taluka Shahada Dist. Nandurbar

...APPLICANT

VERSUS

Shrikant S/o Ramesh Patil,
age 30 years occupation service
R/o Plot No. D-202, Mayureshwar Co-operative Society,
Plot No. DHFL, 295, 296, 297, near Mumbai-Pune High Way,
behind Indian Oil Petrol Pump, near Kaveri Housing Society
Taluka Panvel District Raigad

...NON-APPLICANT

Mr Girish Nagori , Advocate for applicant
Mr V.C. Patil, Advocate for respondent.

CORAM : NITIN W. SAMBRE, J.

DATE : 22nd November, 2017

ORAL ORDER :

Transfer of Hindu Marriage Petition No. 178 of 2017 for divorce initiated by the respondent/husband in the Court of Civil Judge (Senior division), Panvel, is sought to be transferred to the Court of Civil Judge (Senior Division), Shahada Dist. Nandurbar, before whom, according to present applicant, other three proceedings viz. Criminal proceedings out of Crime No. 145 of 2016,

Criminal Misc. Application No. 285 of 2016 under the Protection of Women from Domestic Violence Act and Hindu Marriage Petition No. 69 of 2016 under Section 9 of the Hindu Marriage Act for restitution of Conjugal Rights, are pending.

2. It is claimed that distance between two places is about 420 kilometers. According to applicant, considering hardships, application be allowed, as prayed.

3. Claim is opposed by the respondent on the ground that applicant has suppressed material fact of stay to the Hindu Marriage Petition No. 69 of 2016. He would then invite attention of this Court to the evidence recorded in Regular Criminal Case No. 74 of 2016 to demonstrate that non-applicant and his family members are involved and being harassed in various litigations.

4. Learned Counsel for the non-applicant also relied upon judgment of the Apex Court in the matter of **Anindita Das Vs. Srijit Das {2006(9) SCC 197}**, so as to claim that the remedy of transfer is misused by the women applicant

5. Considered rival submissions. Having regard to the

observations made by the Apex Court in the matter of **Anindita Das**, cited supra, particularly paragraphs No. 4 and 5, and as the non-applicant has agreed, the following order is passed.

- (I) Non-applicant shall deposit amount of Rs. 6000/- (Rs. Six thousand only) initially, within a period of six weeks from today in H.M.P. No. 178 of 2017, pending on the file of Civil Judge (Senior Division), Panvel, out of which amount of Rs. 3000/- (Rs. Three thousand only) be paid to applicant, on each date, provided she attends the proceedings.
- (II) The non-applicant undertakes to continue to deposit an amount of Rs. 3000/- (Rs. Three thousand only) on each date thereafter to which applicant will be entitled.
- (III) In view of the fact that other proceedings being H.M.P. No. 69 of 2016 for restitution of conjugal rights is stayed, hearing of the present petition being H.M.P. No. 178 of 2017 is expedited.
- (IV) It is clarified that in case the non-applicant/husband fails to deposit amount, as ordered above, the application be deemed to have been allowed in terms of Prayer Clause "B".

6. With above observations, the application stands disposed of.

(**NITIN W. SAMBRE, J.**)

pjm