

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

MISCELLANEOUS CIVIL APPLICATION NO. 190 OF 2017

APEKSHA HEMANT JADHAV
VERSUS
HEMANT MADAN JADHAV

...
Advocate for the Applicant : Shri P.P.Mandlik h/f Shri Gandhi Amol S..
...

CORAM: RAVINDRA V. GHUGE, J.

DATE :- 11th December, 2017

Per Court:

1 The Respondent/ husband has been served with the court notice. No appearance has been entered either in person or through an Advocate. As a last chance, since none was present for the Respondent on 30.11.2017, this Court had adjourned the matter to this date.

2 The Applicant, by this application, prays for transferring the Case No.A-520/2016 pending before the learned Family Court at Nashik to the Court of the learned Civil Judge, Senior Division, Kopergaon, which is at a distance of about 100 kilometers. The contention is that after the marital discord occurred between the parties, the Applicant/ wife had filed Criminal Enquiry Application No.111/2017 for seeking maintenance under Section 125 of the Code of Criminal Procedure, before the learned Judicial Magistrate First Class at Kopergaon, which is pending. So also,

she had preferred Hindu Marriage Petition No.19/2017 at Kopargaon. The Respondent/ husband, who is in service at Nashik, travels to Kopargaon for attending the said two proceedings.

3 It is further contended that the Applicant has no source of income and is presently residing at her parental home. She has a child, who is about 18 months old. It requires a complete day to travel to the Court at Nashik from Kopargaon and the return journey is after sunset. The child cannot be kept away from the Applicant for such a long duration and if the child is to be taken to Nashik, the rigours of journey would affect the child, inasmuch as, an adult member in the family has to accompany the Applicant for security while attending the proceedings at Nashik.

4 The Honourable Supreme Court in the matters of Sumita Singh Vs. Kumar Sanjay and another, AIR 2002 SC 396, and Soma Chaudhury vs. Gourab Chaudhury, 2004 (13) SCC 462, has laid down the law that unless special reasons are cited by the husband, the interest of the wife has to be considered. If it is physically inconvenient to the wife and if attending the court proceedings at a distant place, causes manifest inconvenience and grave hardship to the wife, the matter needs to be transferred so as to reduce her rigours of litigation.

5 Considering the above, this Miscellaneous Civil Application is allowed in terms of prayer clause (A). Case No.A-520/2016 shall stand

transferred from the Family Court at Nashik to the Court of the learned Civil Judge, Senior Division, Kopargaon.

6 The Respondent/ husband would be at liberty to request the concerned Court for posting the said proceedings on such date on which other two proceedings are kept so as to make it convenient for him to attend to the three proceedings on the same date.

kps

(RAVINDRA V. GHUGE, J.)