

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

MISC.CIVIL APPLICATION NO.202 OF 2017
(Anuja w/o Harish Choudhari Vs. Harish Bhikaji Choudhari)

Mr.N.S.Tekale, Advocate for the applicant.

CORAM : RAVINDRA V. GHUGE, J.)

DATE : 12/12/2017

PER COURT :

1. The applicant/wife prays for transferring petition-A No.2234/2017 from the Family Court, Bandra, Mumbai to the Court of the learned Civil Judge, S.D. Bhoom, Dist.Osmanabad. Though the respondent/husband has been served, none appeared on 22/11/2017. As a last chance, this matter was posted to this date by order dated 22/11/2017. Yet, none appears for the respondent/husband.

2. The applicant contends that due to the desertion by her husband, she has returned to her parental home at Vashi in Dist.Osmanabad. According to the applicant, the distance between Bandra to Vashi, Dist.Osmanabad is about 400 kms and it requires about 2 days to travel.

3. It is stated that there is no issue out of the wedlock. The petitioner, being a young lady, cannot travel alone by public transport to Bandra for attending the Court hearing and the return trip after the Court hearing is over which normally occurs after sunset and it requires 2 days journey to attend the Court hearing at Bandra. Consequentially, an adult male member of the family, who can protect the applicant, is required to travel alongwith her.

4. Having considered the submissions of the learned Advocates for the respective sides, it cannot be ignored that the petitioner/wife is already suffering the desertion by the husband. She is now residing at her parental home. The Hon'ble Apex Court in the matter of Sumita Singh Vs. Kumar Sanjay AIR 2002 SC 396 and Soma Choudhury Vs.Gourab Choudhury, (2004) 13 SCC 462 has concluded that unless there are circumstances indicated by which it is impossible for the husband to leave his place owing to his job requirements or other compelling circumstances, the convenience of the wife has to be seen.

5. It is informed that Cri.appl.No.945/2017 under the Domestic Violence Act and RCS No.603/2017 are pending before the learned J.M.F.C. and the learned C.J.J.D. at Vashi which have been

instituted by the wife at Vashi, Dist.Osmanabad. It cannot be ignored that the respondent/ husband will now be required to travel to Vashi for attending the proceedings in the said two cases. It would therefore be convenient to both the sides to have the proceedings initiated by the husband, transferred to Vashi with liberty to the husband to have all the proceedings posted on a common date so that he can attend the said proceedings in a single visit.

6. This application is allowed in terms prayer clause "B" and petition-A No.2234/2017 shall stand transferred from the Family Court, Bandra to the C.J.S.D. Bhoom, Dist. Osmanabad.

(RAVINDRA V. GHUGE, J.)