

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

Misc. Civil Application No. 1098/2015

Sau. Sonal W/o Ashish Chopade

Vs

Ashish S/o Chandrakant Chopade

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri R.G. Kavimandan, Adv. for the applicant

CORAM : S.B.Shukre, J.

DATE : 19.7.2017.

Heard the Learned Counsel for the applicant.

This application is strongly opposed by the Learned Counsel for the non-applicant contending that no inconvenience whatsoever is going to be caused to the applicant. According to the Learned Counsel for the applicant, the applicant is not permanent resident of Nashik. She visits Nashik only occasionally and that too when it is required of her to take written examination of a course being offered by Nashik Open University of which Nashik is the examination center. He also submits that the address given in the complaint was actually a temporary address and used by the applicant only for residing when she visited Nashik to take the written

examination of the Open University. He also submits that the applicant is not doing any business at Nashik and it is falsely contended by the non-applicant that she carries on some business at Nashik.

It appears that in the first reply dated 17/06/2017, this applicant did not specifically deny the allegation that she is doing a job at Nashik and residing there, though in the second reply she has denied so. But, she has not given any explanation as to why did she not deny the same at the earliest available opportunity. Therefore, specific denial in subsequent reply, filed after a long gap in between, can no more than an after-thought, and is rejected.

This would lead me to find substance in the contentions of the learned Counsel for the non-applicant that the applicant must be doing some job in Nashik and no merit in the submission of Learned Counsel for the applicant that she is not permanent resident of Nashik and she visits Nashik only occasionally when it is required of her part to take the examination. This would also lead to the conclusion that

the applicant is capable of undertaking the journeys from Buldhana to Nashik and Nashik to Buldhana without any difficulty and inconvenience on her part.

It is stated in a Para 3 of the application that three proceedings are pending between the applicant and the parties, with one relating to a Divorce petition pending before the Nashik Court, the second to an application filed under the provision of Domestic Violence Act and third to an application filed under section 125 of the Code of Criminal Procedure before Buldhana Courts.

In the domestic violence proceedings, the parents of the non-applicant are also joined as non-applicants. These two proceeding, it is submitted by the Learned Counsel for the applicant, are pending at the stage of cross-examination of the applicant.

Considering the stage of the proceedings pending before Buldhana Courts, I am of the view that, if there is a transfer of proceedings at this stage to Nashik, the ends of justice are likely to suffer.

In view of the above, I am of the opinion that this application deserves to be allowed.

In the circumstances, the application is allowed.
Petition being Petition no. 186/2015 pending before family

Court, Nashik, stands transferred to Court of Civil Judge, Senior Division, Buldhana. The application is allowed in these terms. No Costs.

Divorce petition shall be disposed of by the Court of Civil Judge, Senior Division as expeditiously as possible preferably within 1 year from the date of receipt of proceedings from the Nashik Court. This is, however, subject to both the parties co-operating with the Trial Court.

The counter prayer made for transfer of proceedings is rejected.

JUDGE

A.P. Ansari