

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

MISC.CIVIL APPLICATION NO. 45 OF 2018

MAYURI RAHUL DESHMUKH
VERSUS
RAHUL DHANANJAY DESHMUKH

...
Advocate for Applicant : Shri Bhosle Mahesh K.
Advocate for Respondent : Shri Sonavane Narendra D.
...

CORAM : RAVINDRA V. GHUGE, J.
Dated: October 11, 2018
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PER COURT :-

1 When this Court (Coram : V.K.Jadhav, J.) issued notice on 27.2.2018, the following order was passed:-

“1 The learned counsel for the applicant submits that the applicant has a sucking child and it is not possible for her to travel along with the child to attend the dates in the court at Aurangabad. The respondent / husband has filed a Petition No.A-570 of 2017 before the Family Court, Aurangabad for divorce.

2 In view of the above, issue notice to the respondent / husband, returnable on 10.4.2018.

3 Till the next date of hearing, the further proceedings in the Hindu Marriage Petition No.A-570 of 2017, pending before the Family Court, Aurangabad are hereby stayed.”

2 Learned Advocate for the applicant wife relies upon the following judgments:-

- (i) Vennangot Anuradha Samir Vs. Vennangot Mohandas Samir-
2016 (1) Bom.C.R.250,
- (ii) Soma Choudhuri Vs. Gourab Choudhuri (2004) 13 SCC 462,
- (iii) Anjali Ashok Sadhwani Vs. Ashok Kishinchand Sadhwani,
AIR 2009 SC 1374
- (iv) Vaishali Shridhar Jagtap vs. Shridhar Vishwanath Jagtap -
2016 AIR (SC) 3584
- (v) Sayali Swapnil Kuber Vs. Swapnil Harischandra Kuber-
[2014(1) Mh.L.J. 584],
- (vi) Nilima Vs. Pavansingh - LEX (BOM)2011 9 193 and
- (vii) Shila Nitin Rajure Vs. Nitin Marotiappa Rajure -
MCA No.184 of 2017 (Aurangabad Bench), dated 9.1.2018.

3 Learned counsel for the respondent / husband submits, firstly, that the husband desires to save the marriage. Secondly, his aged parents, who are senior citizens are residing with him at Aurangabad after his father retired from employment. He owes a duty in taking care of his aged parents. Without the cooperation of the wife, neither can he have a blissful married life, nor would he be able to take care of his old

parents. Thirdly, that in the proceedings said to have been filed by the applicant under the Protection of Women from Domestic Violence Act, 2005, numbered as PWDV-30 of 2018, he has not received any notice from the Buldhana Court. He has however, received the notice in the proceedings filed by the applicant under Section 125 of the Code of Criminal Procedure, at Buldhana.

4 Learned counsel for the applicant / wife submits that she has been earlier threatened with physical harm and, therefore, it would not be possible for her to reside with her husband along with her parents in law at Aurangabad. Considering the allegation and the physical assault suffered by the applicant for having given birth to a girl child, would indicate that she is not safe at Aurangabad. He further submits that biologically, it is the husband who is responsible for the sex of the child and not the mother.

5 I find that two proceedings have been initiated by the applicant before the Courts at Buldhana. The respondent / husband already appears in one proceeding. Ends of justice would be met in view of the law cited that the proceedings initiated by the husband be transferred to Buldhana with the liberty to seek common dates of hearing in the three matters, which would make it convenient for the husband.

6 In this view of the matter, this application is allowed in terms of prayer clause (A), which reads as under:-

“(A) By issuing appropriate order, the Honourable high Court may be pleased to transfer petition No.A-570/2017 pending in the file of Family Court, Aurangabad to the Buldhana Court having competent jurisdiction.”

7 The litigating sides shall appear before the learned Civil Judge S.D., Buldhana on 22.10.2018. Formal notices need not be issued. The said Court at Buldhana would refer the matter to a trained mediator at the District level. The dates in the mediation proceedings would be common to the dates on which the other two matters are posted. After the mediation proceedings are over, the concerned Court would proceed with Petition No. A-570 of 2017. Needless to state, if the mediation is successful, the parties would decide the modalities for seeking disposal of all the pending cases.

(RAVINDRA V. GHUGE, J.)

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akl/d

Ajay
Kishanrao
Losarwar

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signed by Ajay
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