

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

MISC. CIVIL APPLICATION NO. 30 OF 2018

ROSHNI VIKRANT EKATPURE
VERSUS
VIKRANT SURESH EKATPURE

Advocate for Applicant : Mr. G.S. Rane.
Advocate for Respondent : Mr. S.W. Munde.

CORAM : RAVINDRA V.GHUGE, J.
DATED : 27th August, 2018

PER COURT :

1. I have heard the learned advocates for the respective sides.
2. By this application, the applicant/wife prays for transferring Civil Miscellaneous Application No. 32/2017, from Malshiras, District Solapur, to the Court of the Additional District Judge, Amalner.
3. Learned advocate for the applicant/wife submits that presently she is staying at her parent's place in Kalansare, which is near to Taluka Amalner, District Jalgaon. She has a male child, born out of the wedlock, who is about 1 ½ years old. The age of applicant is about 26 years. She has to travel to Malshiras, which is at the distance of about 500 k.m. She has to break her journey at Ahmednagar and board another Bus to travel to Malshiras. An adult member of the family is also required to accompany her. A proceeding under Section

125 of the Cr.P.C. is pending before the Amalner Court and the husband attends the said hearing.

4. It is therefore, submitted that the applicant suffers grave prejudice and manifest inconvenience, if she is to travel to Malshiras along with the child and an adult member of the family. The husband already appears in the proceeding at Amalner and hence, the proceedings at Malshiras can be transferred to the Court of the District Judge at Amalner. Reliance is placed upon the following judgments :

1. Chaya Balaji Birajdar Versus Balaji Ishwarrao Birajdar [2011(2)

Mh.L.J.]

2. Sumita Singh Versus Kumar Sanjay and another [AIR 2002 SC

396]

3. Aruna Gorakhnath Korde Versus Gorakhnath Devidas Korde

[2014(3) Mh.L.J.]

4. Mukta alisa Lata Sachin Chide Versus Sachin Kamlakar Chide

[2015(5) Mh.L.J.]

5. Learned counsel for the respondent has entered an affidavit-in-reply. He has opposed the application, contending that he works in a medical shop at Akulj. Instead of traveling from Malshiras to Amalner, the matter can be transferred to the Court at Aurangabad and both the parties can travel from their own places to Aurangabad and participate in the hearing.

6. Reliance is placed upon the following judgments/orders :

1. *Anindita Das Versus Srijit Das [(2006) 9 SCC 197]*

2. *Devendra Kumar Sarewgee and others Versus Purbanchal Estates (P) Ltd and others [(2006) 9 SCC 199]*

3. *Nisha Sanjay Rakh Versus Sanjay Raosaheb Rakh [Order dtd. 04/12/2017, passed by this Hon'ble High Court in MCA No. 229/2016]*

4. *Sanjay Raosabheb Rakh Versus Nisha Sanjay Rakh [Order dtd. 04/12/2017, passed by this Hon'ble High Court in MCA No. 16/2017]*

5. *Komal Nilesh Santashe Versus Nilesh Diliprao Santashe [Order dtd. 08/11/2017, passed by this Hon'ble High Court in MCA No. 148/2017]*

7. It is obvious from the record that in one proceeding which is pending before the Court at Amalner, the respondent visits Amalner and participates in the said proceedings. If the pending proceeding before the Malshiras Court is transferred to Amalner and is posted on the same date on which the other matter instituted by the applicant/wife is posted, the respondent can attend both the Court proceedings in a single trip. Per contra, the applicant will have to travel from Kalamsare to Aurangabad and carry her 1 ½ years old child along with an adult member. This would not reduce her hardship and more so in the face of the fact that the proceeding initiated by her

is pending at Amalner under Section 125 of the Cr.P.C. and the respondent attends the said proceedings.

8. In view of the above and considering the law laid down by the Hon'ble Apex court, I find that it would be convenient to transfer the pending proceedings from Malshiras to the Court of the learned District Judge, Amalner.

9. This application, is therefore, allowed in terms of prayer clause (A) which reads as under :

“A. The Hon'ble High Court may be pleased to transfer the proceedings of Civil Misc. Application No. 32/2017, pending before the Court of Additional District Judge, Malshiras to the District Court, Amalner.”

10. The Court dealing with the proceeding at Amalner can be requested by the respondent for posting the matter on the same date so as to enable him to travel to Amalner and participate in both the proceedings in a single trip. In these circumstances, the applicant would not oppose to his request.

11. Since I have perused the rival pleadings of the parties, I find that if these parties decide to adopt a pragmatic approach, there is a possibility to save the marriage. The learned Court at Amalner would

endeavor to consider this aspect and refer the matter to a trained Mediator, with the hope of saving the marriage and the future of child who is just of 1 ½ years of age.

(RAVINDRA V. GHUGE, J.)

S.P.C.