

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

MISC.CIVIL APPLICATION NO. 55 OF 2018

**SHUBHANGI AMOL SWAMI
VERSUS
AMOL UMAKANT SWAMI**

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Advocate for the Applicant : Shri Santosh B. Gastgar
Advocate for the Respondent-sole : Shri P. P. Dama

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CORAM : RAVINDRA V. GHUGE, J.

DATED : 27th AUGUST, 2018.

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PER COURT :

1. This Court, while issuing notice on 19/03/2018, has stayed H.M.PNo. 70/2017 filed by the respondent-husband before the learned Civil Judge, Senior Division, Ambajogai.
2. The applicant- wife prays for transferring the said proceeding to the Family Court at Aurangabad. The applicant resides at Aurangabad alongwith a girl child who is three years of age. She has to travel to Ambajogai which is at a distance of more than 250 km., for attending to the proceedings filed by the respondent- husband seeking restitution of conjugal rights.
3. The learned Advocate for the applicant- wife has narrated the circumstances, in which the respondent- husband,

has forcibly taken an elder male child and moved to Ambajogai though the applicant is a Medical Practitioner and has acquired a good job in a reputed Super Speciality Hospital at Aurangabad. The marriage can be saved only if the respondent, who is not so well educated, agrees to come to Aurangabad so that the applicant- wife can pursue her employment with the reputed Hospital and the respondent can also search for a job at Aurangabad.

4. The learned Advocate for the respondent- husband has opposed this application.

5. I find that the differences between this couple are purely of mis-understanding and probably on account of the ego of the husband since the wife is a Medical Practitioner and has a good job.

6. Considering the law laid down by the Honourable Apex Court in the matters of (1) *Soma Choudhuri Vs. Gourab Choudhaury*, (2004) 13 Supreme Court Cases 462, (2) *Anjali Ashok Sadhgwani Vs. Ashok Kishinchand Sadhwani*, AIR 2009 Supreme Court, 1374, (3) *Vaishali Shridhar Jagtap vs. Shridhar Vishwanath Jagtap*, 2016 AIR (SC) 3584 and (4)

Sayali w/o Swapnil Kuber Vs. Swapnil s/o Harischandra Kuber, [2014(1) Mh.L.J. 584], this application is allowed in terms of prayer Clause 'B' which reads as under :-

" (B) Proceedings H.M.P No. 70/2017 filed by present respondent U/Sec. 9 of Hindu Marriage Act, against present applicant and pending before Civil Court (S.D.) Ambajogai Dist. Beed may kindly be transferred to Civil Court (S.D.) Aurangabad or Family Court at Aurangabad for disposal according to law".

7. The litigating sides shall appear before the learned Family Court at Aurangabad on 25/09/2018.

8. Considering the minor differences between the parties, I express a view that the learned Family Court would refer these proceedings to a trained counsellor or a trained mediator to make an attempt to save the marriage between these parties and in the interest of the two children.

9. The litigating sides would co-operate and resolve the differences if they desire to save this marriage.

(RAVINDRA V. GHUGE, J.)

shp/-