

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

MISC.CIVIL APPLICATION NO.58 OF 2018

PRITI PRADIP PATIL
VERSUS
PRADIP BHIMRAO PATIL

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Advocate for Applicant : Shri Warma B.R.
Advocate for Respondents : Smt. Ansari A.N. h/f Smt. Gaikwad C.E.

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CORAM : RAVINDRA V. GHUGE, J.
Dated: December 13, 2018

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PER COURT :-

1. Shri Patil, learned Advocate, though makes a grievance that a new Advocate has been appointed without taking his consent, he seeks a discharge from the proceedings. As the new Advocate has appeared on behalf of the husband, the appearance of Shri Patil is discharged.

2. I have heard the learned Advocates for the respective sides for quite some time.

3. This Court has passed an order on 5.4.2018, which reads as under:-

"1. Heard learned counsel for the applicant/wife. Though, the notice is yet to be issued to the respondent/husband, this Court has considered the question of jurisdiction of this

Bench suo-moto . The learned counsel for the applicant/wife relied upon the judgments in case of Sangamitra w/o Ramakant Royalwar vs. Ramakant s/o Gangaram Royalwar, reported in 2009(1) Mh.L.J, 303 (Coram : B. P. Dharmadhikari, J.), Sayali w/o Swapnil Kuber vs. Swapnil s/o Harischandra Kuber reported in [2014(1) Mh.L.J. 584] (Coram : A. B. Choudhari, J.) and on a judgment in case of Rita Mananprasad Bhondekar Vs. Mananprasad Tarachand Bhondekar in Misc. Civil Application No.28 of 2017 (Coram : Abhay S. Oka, J.) and submits that, this Bench has a jurisdiction to entertain the Misc. Civil Application seeking transfer of Hindu Marriage Petition filed by the respondent/husband in a District located within the jurisdiction of the another Bench.

2. In view of the ratio laid down by this Court in the case of Sanghmitra Vs. Ramakant, Sayali Swapnil Kuber Vs. Swapnil Harischandra Kuber (supra) and also the view taken by this Court in Misc. Civil Application 28/2017 (Rita Mananprasad Bhondekar Vs. Mananprasad Tarachand Bhondekar) (Coram : A.S. Oak, J.), issue notice to the Respondent/husband returnable on 7.6.2018.

3. Learned counsel for the applicant submits that, it is difficult for the applicantwife to attend the court dates due to long distance and due to old aged parents, no other member is there in the family of the applicant to accompany her in attending the court dates, etc. In view of the above, till the next date of hearing, the further proceedings in Hindu Marriage Petition No. 220 of 2017 pending on the file of learned Civil Judge, Senior Division, Amalner, are hereby stayed."

4. Learned Advocate for the husband has strenuously opposed this application and submits that though he has moved the proceedings for dissolution of the marriage, the wife has moved this application only to harass the applicant.

5. I find that the respondent, who is an employee in the Indian Army, resides at Ambala, Haryana and the proceedings are initiated at Amalner.

6. The applicant has a girl child born on 8.10.2012. The distance between Nasik and Amalner is about 200 kms. It requires 2 nights journey for travelling to and fro. The daughter is studying in an Army School, which is at a distance of about 6 kms. from the home of the applicant at Nasik. Her mother is aged and the financial condition of her aged father is bad as he has no regular employment and he sells articles like Aata and Chutney by moving door to door. Neither can he afford leaving Nasik since it would cost him 2 days of earning a livelihood, nor can the applicant travel alone or with her daughter, undertaking an overnight journey.

7. In view of the above, this application is allowed. HMP No.220 of 2017 is transferred to the Family Court at Nasik. The litigating sides

shall appear before the Family Court at Nasik on 3.1.2019. Formal notices are not to be issued.

(RAVINDRA V. GHUGE, J.)

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