

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

MISC.CIVIL APPLICATION NO.34 OF 2018

**JAGRUTI DHIRAJ JADHAV
VERSUS
DHIRAJ HANMANTRAO JADHAV**

...
Advocate for the Applicant : Shri V. P. Raje
Advocate for the Respondent - sole : Shri Shaikh Kayyum Najir
...

CORAM : RAVINDRA V. GHUGE, J.

DATED : 15th JANUARY, 2019.

...

PER COURT :

1. While issuing notice, this Court had passed an order on 05/04/2018 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 suomoto. 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. 85 of 2017 pending on the file of learned Civil Judge, Senior Division, Malkapur, are hereby stayed. "*

2. This matter was referred to a mediator and the report of the learned mediator dated 26/10/2018 indicates that the mediation has failed.

3. The applicant relies upon the following judgments in support of her case :-

- 1) *Vaishali Shridhar Jagtap Vs. Shridhar Vishwanath Jagtap [(2016) 14 SCC 356]*
- 2) *Anjali Ashok Sadhwani Vs. Ashok Kishinchand Sadhwani [AIR 2009 SC 1374]*
- 3) *Mona Aresh Goel Vs. Aresh Satya Goel [AIR 2000 SC 3512 (1)]*
- 4) *Sumita Singh Vs. Kumar Sanjay and Another [AIR 2002 SC 396]*
- 5) *Soma Choudhury Vs. Gourab Choudhaury [2004 (13) SCC 462]*
- 6) *Bhagyashree Ganesh Trimbake Vs. Ganesh Shivling Trimbake [Order dated 13/03/2018 passed by this Hon'ble High Court in MCA No. 28/2017]*

4. The learned Advocate for the respondent-husband opposes this application. He submits that a false case has been filed by the applicant under Section 12 of the Protection of Women From Domestic Violence Act, 2005 at Dhule. Though the respondent is attending the said proceedings, there is no reason to transfer his proceedings from Malkapur, District

Buldhana to Dhule.

5. It appears that the applicant will have to travel alongwith an adult member, from Dhule to Malkapur. The distance is of about 180 kms. and atleast one overnight journey is required to be undertaken. She is residing with her widowed mother at Dhule. The husband attends the proceedings at Dhule and, therefore, the proceedings initiated by him would also be transferred to Dhule and he could attend the proceedings on common dates.

6. Having considered the case, I find that law crystalized in such matters would assist the applicant. The husband already attends the proceedings initiated by her at Dhule.

7. In view of the above, this application is allowed. HMP No. 85/2017 stands transferred to the Court of the learned Civil Judge, Senior Division at Dhule.

8. Since the next date in the proceedings preferred by the wife is 16/01/2019, the transferred proceedings would be

posted on 11/02/2019. The litigating sides would appear before the Court accordingly. Both the Courts would consider posting the two matters on common dates so that the respondent husband could attend the proceedings, conveniently.

(RAVINDRA V. GHUGE, J.)

shp/-