

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

MISC.CIVIL APPLICATION NO.20 OF 2018

SUNITA DNYANESHWAR BHANGE
VERSUS
DNYANESHWAR MANIK BHANGE

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Advocate for Applicant : Shri Kotkar Sachin S.
Advocate for Respondents : Shri Temak Rahul B.

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CORAM : RAVINDRA V. GHUGE, J.
Dated: February 25, 2019

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PER COURT :-

1. Learned Advocate for the applicant submits that her Misc. Application No.15 of 2017, seeking condonation of 25 days' delay in preferring a Regular Civil Appeal, was sought to be transferred. Now that the said application is allowed. The appeal is registered as RCA No.7 of 2019. The applicant is the appellant, who has suffered the judgment of the trial Court in RCA No. 7 of 2019. It is, therefore, prayed that leave to correct the prayer clause may be granted. Correction is permitted and it be carried out forthwith.

2. The learned Advocate for the respondent / husband has opposed this petition on the ground that the suit was tried at Khed in Pune for more than three years and the applicant participated in the trial. Now, that the appeal has been registered, there is no question of

fresh evidence, unless the situation so occurs under Order XLI Rule 27 of the CPC, which also has to be considered along with the main appeal in the light of the judgments of the Honourable Apex Court in the matters delivered in Malyalam Plantation Ltd. Vs. State of Kerala [AIR 2011 SC 559], Union of India Vs. Ibrahim Uddin and another [(2012) 8 SCC 148] and A. Andisamy Chettiar Vs. A. Suburaj Chettiar [AIR 2016 SC 79]. He, therefore, submits that there is no purpose in transferring the said proceedings to Newasa. He further adds that there are three cases instituted by the applicant before the different Courts in Newasa, Ahmednagar and whenever the respondent husband attends the said proceedings, the brother of the applicant wife harasses him.

3. It appears from record that the respondent husband attends three proceedings at Newasa. By issuing certain directions to the applicant, the appeal could also be transferred to Newasa and the matters could be posted on common dates for the convenience of the husband.

4. In the light of the above, this application is allowed. RCA No. 7 of 2019 stands transferred to the Court of the learned Additional District Judge, Newasa. The litigating sides would appear in the transferred proceedings on 16.3.2019 on which date the other cases

are posted. All the Courts at Newasa dealing with the cases in between the parties, would post the matters on common dates, so that the respondent / husband can attend the proceedings in single visits, keeping in view that the two minor children born from such marriage are residing with the respondent. All the litigating sides would refrain from seeking unnecessary adjournments.

5. By way of caution, the applicant shall note that she or her brothers or their relatives would not create trouble or harassment to the respondent / husband any time in future, though this Court has not formed any opinion that they have harassed him in the past.

(RAVINDRA V. GHUGE, J.)

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