

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

MISC.CIVIL APPLICATION NO.40 OF 2019
(Komal Nitin Choudhary Vs. Nitin Gulabchand Choudhary)

Mr.B.R.Warma, Advocate for the applicant.

(CORAM : Ravindra V.Ghuge, J.)

DATE : 18/04/2019

PER COURT :

1. On 01/03/2019, I had recorded the submissions of the learned Advocate for the applicant / wife as under :-

“1. The applicant wife prays for transferring HMP No. 80/2018 from the Court of the learned Civil Judge Senior Division, Shahada to the Court of the learned Civil Judge Senior Division, Chalisgaon.

2. It is contended that the applicant was compelled to leave her matrimonial home and reside with her poor father, who is a farmer. She has initiated one proceeding before the Court at Chalisgaon and the respondent husband is attending the said proceedings. If she is compelled to participate in the proceeding initiated by her husband at Shahada, she would have to travel alongwith an adult member of her family on every date. When the husband attends the proceedings at Chalisgaon, these proceedings can also be transferred, is the contention.

3. Reliance is placed upon the following judgments :

(i) *Vennangot Anuradha Samir Vs. Vennangot Mohandas Samir* [2016 (1) Bom.C.R.250],

(ii) *Soma Choudhury Vs. Gourab Choudhaaury* [(2004) 13 SCC 462],

(iii) *Anjali Ashok Sadhwani Vs. Ashok Kishinchand Sadhwani* [AIR 2009 SC 1374],

(iv) *Vaishali Sridhar Jagtap Vs. Shridhar Vishwanath Jagtap* [AIR 2016 SC 3584],

(v) *Sayali Swapnil Kuber Vs. Swapni Harischandra Kuber* [2014 (1) Mh.L.J. 584],

(vi) *Nilima Vs. Pavansingh* [2011 (4) Mh.L.R. 537],

(vii) *Sushila Nitin Rajure Vs. Nitin Marotiappa Rajure* (MCA No.184 of 2017 Aurangabad Bench, dated 9.1.2018].

4. *Issue notice to the respondent, returnable on 05/04/2019. Until then, the concerned Court would adjourn HMP No. 80/2018.*

5. *The applicant shall supply the paper book for issuance of notice, on or before 08/03/2019, failing which this application shall stand rejected without reference to the Court on 11/03/2019.”*

2. Court notice has been served on the husband. However, no appearance has been entered.

3. The distance from Shahada to Chalisgaon is said to be more than 160 kms. The applicant/wife has preferred an application No.205/2018 under the Protection of Women from Domestic Violence Act, 2005 at Chalisgaon.

4. Considering the above and the law laid down, this application is allowed. HMP No.80/2018 shall be transferred from the Court of the learned Civil Judge, Sr.Dn. Shahada to the Court of the learned Civil Judge, Sr.Dn.Chalisgaon. Since the other proceeding filed by the wife is posted on 14/05/2019 in Chalisgaon, the applicant/wife in this transferred proceeding would also appear on the said date.

5. The husband would be at liberty to seek common dates in both the proceedings at Chalisgaon so as to participate in such proceedings in his common visits.

(Ravindra V.Ghuge, J.)