

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

MISC.CIVIL APPLICATION NO.79 OF 2018
(Manisha w/o Rameshwar Rahane Vs. Rameshwar Shankarrao
Rahane)

Mrs.B.B.Gunjal, Advocate for the applicant.
Mr.Joslyn Menezes, Advocate for the respondent.

(CORAM : Ravindra V.Ghuge, J.)

DATE : 22/07/2019

PER COURT :

1. The applicant/wife seeks transfer of HMP No.547/2017 from the learned Family Court, Aurangabad to the Court of the learned Civil Judge, S.D. Ambajogai.

2. Contention is that the wife was ill treated and after suffering physical and mental abuse, she returned to her mother's place at Ambajogai. Her father is no more alive and she is residing with her aged mother. She has a 7 years old child born out of the marriage and residing alongwith her at Ambajogai.

3. The applicant places reliance upon the following judgments :-
(i) Vennangot Anuradha Samir Vs. Vennangot Mohandas Samir-
2016 (1) Bom.C.R.250,

- (ii) Soma Choudhuri Vs. Gourab Choudhuri (2004) 13 SCC 462,
- (iii) Anjali Ashok Sadhwani Vs. Ashok Kishinchand Sadhwani, AIR 2009 SC 1374
- (iv) Vaishali Shridhar Jagtap vs. Shridhar Vishwanath Jagtap - 2016 AIR (SC) 3584
- (v) Sayali Swapnil Kuber Vs. Swapnil Harischandra Kuber- [2014(1) Mh.L.J. 584],
- (vi) Nilima Vs. Pavansingh - LEX (BOM)2011 9 193 and
- (vii) Shila Nitin Rajure Vs. Nitin Marotiappa Rajure - MCA No.184 of 2017 (Aurangabad Bench), dated 9.1.2018.

4. The learned Advocate for the husband submits that he is willing to save the marriage and therefore he has preferred the proceedings for restitution of conjugal rights. He has never illtreated the wife. Earlier he was employed in a Company and presently he is unemployed. He has no money to spend for travelling to Ambajogai for attending the court proceedings and he therefore opposes the transfer of proceedings.

5. The learned Advocate for the wife submits that she would require an adult member of the family to escort her to Aurangabad. Since her father is no more, her aged mother cannot be expected to accompany her. The respondent/husband was employed in a Company and she is unaware as to whether he has lost his

employment. Presently she is not in employment and she does not have a source of income.

6. The crystallized position of Law is that in such circumstances, the comparative hardships between the litigating couple have to be assessed. The convenience of the wife is to be considered if she finds it difficult to travel for attending the court proceedings. In the instant case, the applicant/wife contends that her aged mother will have to accompany her and that would aggravate her hardships.

7. Considering the above, this application is allowed. HMP No.547/2017 shall stand transferred from the learned Family Court, Aurangabad to the Court of the learned Civil Judge, S.D. Ambajogai. The litigating sides shall appear before the Court at Ambajogai on 03/08/2019.

(Ravindra V.Ghuge, J.)