

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

MISC.CIVIL APPLICATION NO.100 OF 2018

ROHINI JAGDISH JOSHI
VERSUS
JAGDISH ARUN JOSHI

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Advocate for Applicant : Shri Anjanwatikar Vinay B.
Advocate for Respondent : Shri Sarvadnya Rohit S.

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CORAM : RAVINDRA V. GHUGE, J.
Dated: April 15, 2019
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PER COURT :-

1. The applicant / wife seeks transfer of HMP No.50 of 2018, filed by the respondent / husband for seeking a divorce, from the court at Nasik to the court of the learned Civil Judge S.D. Parbhani.
2. The applicant submits that she has filed HMP No.59 of 2018 before the Court of the learned Civil Judge S.D. Parbhani, seeking restitution of conjugal rights. She is residing with her uncle in Parbhani, which is at a distance of about 350 to 400 kms. from Nasik. Two over night journeys have to be undertaken and an adult member of the family has to accompany her to attend the Court proceedings at Nasik.
3. Reliance is placed 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) Sumita Singh vs. Kumar Sanjay - (2001) 10 SCC 41 : AIR 2002 SC 396,
- (vi) Mahadevi Mehtre vs. Gopal - 2015 (5) AIR Bom. 250,
- (vii) Mona Aresh Goel vs. Aresh Satya Goel - 2000 (9) SCC 255 : AIR 2000 SCW 2652,
- (viii) Ravinder Kaur vs. Hitinder Singh - AIR 2000 SC 3403,
- (ix) Rena Gautam vs. Vinod Gautam - AIR 2000 SC 3405,
- (x) Reena Mehra vs. Rohit Rai Mehra - AIR 2003 SC 1002,
- (xi) Rakhi Banerjee vs. Subhankar Mukherje - AIR 2009 SC 928,
- (xii) T.Gayatri Devi vs. Tallepaneni Sreekanth - 2013 (6) Bom. C.R. 119 (SC),
- (xiii) Anita Balkrishna Barge vs. Balkrishna Sopan Barge - 2011 (3) Bom. C.R. 866 (Aurangabad Bench) and
- (xiv) Smita Dhananjay Patil vs. Dhananjay Krishnakumar Patil - 2013 (5) Bom.C.R. 694 (Aurangabad Bench).

4. Learned counsel for the respondent submits that he is a priest and resides at Trimbakeshwar. It is denied that he used to often beat the applicant. It is also denied that he wanted to marry another girl. The applicant submits that she has filed a complaint with the

Trimbakeshwar Police Station on account of such physical and mental torture.

5. The respondent submits that he is willing to pay the travelling charges for the applicant and both the matters could be transferred to the Court at Nasik.

6. In the light of the judgments cited above, I find that the law is well settled that comparative hardships of the litigating sides have to be considered. The convenience of the wife has to be considered since she has to be accompanied by an adult member of the family in such litigation and may not be in a position to travel alone.

7. The applicant / wife has already preferred a proceeding seeking a restitution of conjugal rights at Parbhani. If the applicant is to travel to Nasik, she would have to undertake two overnight journeys and an adult member of the family would have to be along with her for the entire period. Her parents are aged and hence, she is residing with her paternal uncle.

8. Considering the above, this application is allowed. HMP No.50 of 2018 shall be transferred from the Court at Nasik to the Court of the learned Civil Judge S.D. Parbhani.

9. It is informed that the next date in HMP No.59 of 2018, filed by the wife is 24.4.2019 at Parbhani. Both the litigating sides would, therefore, appear before the said Court in the transferred proceedings on the same date. The husband is at liberty to seek common dates in both the matters, so that he can participate in both the proceedings in his common visits to Parbhani. The applicant / wife would consent for such dates.

(RAVINDRA V. GHUGE, J.)

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