

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

MISC.CIVIL APPLICATION NO.175 OF 2018

BHAGYASHRI RUPESH KANDEKAR
VERSUS
RUPESH BHASKAR KANDEKAR

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Advocate for Applicant : Shri Shaikh M.S.

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CORAM : RAVINDRA V. GHUGE, J.
Dated: March 11, 2019

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PER COURT :-

1. On 11.10.2018, I had recorded the submission of the learned Advocate for the applicant and had passed the following order:-

"1 The applicant wife seeks transfer of HMP NO.A-480/2017, filed by the respondent / husband, from the Family Court, Nashik to the Court of Civil Judge S.D. Kopargaon.

2 The applicant is residing with her parents after being driven out of the marital home. She was harassed and tortured. An adult member of the family has to accompany her to attend the Court proceedings at Nashik.

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) *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 *Issue notice to the respondent, returnable on 7.12.2018. Until then the trial Court will adjourn HMP NO.A-480/2017.*

5 *Copy of the paper book for issuance of notice shall be supplied and all objections shall be removed on/or before 24.10.2018, failing which this application shall stand rejected without reference to the Court on 25.10.2018."*

2. The Bailiff report indicates that the notice was attempted to be served on the address mentioned by the respondent / husband in HMP No. A-480 of 2017. The notice was affixed on his residence. The father of the respondent stated that the respondent does not reside on the said address. The same address is mentioned in the Court below and has not been altered. I, therefore, hold that service

is complete.

3. Despite adjournments on 30.1.2019 and 27.2.2019, no appearance has been entered by the respondent.

4. In view of the above, this application is allowed and HMP No. A-480 of 2017 stands transferred to the Court of the learned Civil Judge S.D. Kopargaon. The parties shall appear before the concerned Court on 18.3.2019.

5. The respondent / husband is at liberty to pray for posting this matter along with the other proceeding HMP No.210 of 2017, filed by the applicant / wife before the same Court, on common dates.

(RAVINDRA V. GHUGE, J.)

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akl/d