

DDR

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

MISC. CIVIL APPLICATION NO. 16 OF 2019

Deepali Nanasaheb Bodake & ors. ..Applicants

vs.

Rajaram Pandurang Bodake & ors. ..Respondents

....

Shri R.S. Alange i/b. Ms. R.S. Pangave for applicants.

Shri Yogesh Pande for respondent Nos. 1 and 2.

Shri S.S. Diwan for respondent No.4.

....

CORAM : M.S.KARNIK, J.

DATE : 10th OCTOBER, 2019

P.C. :

Heard learned counsel for the applicants and learned counsel for the respondents.

2. The applicant No.1 is the daughter-in-law of respondent Nos. 1 and 2. The applicant Nos. 2 and 3 are her minor children. The applicant's husband died in an accident.

3. The applicants filed the proceedings before the Member Motor Accident Claims Tribunal at Pune ('MACT' for short) being Claim Petition No. 379 of 2017 for compensation.

There is no dispute that initially the applicants and respondent Nos. 1 and 2 had engaged the same Advocate as they are pursuing a common cause. The applicants were residing at Pune when this claim Petition was filed. At the relevant time she was residing with her husband at Pune. However, after the death of her husband it was not possible for her to reside in Pune and therefore she had to shift to the present address at Kurdwadi, Taluka Madha, District Solapur along with her children. It is her case in this application that it is inconvenient for her to attend the proceedings in Pune before the MACT as she resides in remote area and also has to look after her minor children.

4. Learned counsel for respondent Nos. 1 and 2 opposed the present application. According to him, the affidavit of the evidence has been filed on behalf of the claimants. There is no need now to transfer this proceeding at this juncture as MACT can be directed to expedite the proceedings. He would further submit that respondent Nos. 1 and 2 are residing with their daughter in Pune. He would submit that respondent Nos. 1

and 2 were residing at Solapur but due to financial difficulties they had to shift to their daughter's residence. They have now started residing with their daughter at Pune. It is also his case that applicant NO.1 has virtually abandoned respondent Nos. 1 and 2.

5. Heard learned counsel.

6. From the record it is seen that the applicants had filed the claim Petition at Pune. Applicant No.1 was then residing at Pune. However, as it was not possible for applicant No.1 to continue to reside in Pune, she had to shift to a remote area in Solapur. She is presently staying at Kurdwadi, Taluka Madha, District Solapur with her children at her parent's house which is her native place. It is pertinent to note and as pointed out by learned counsel for the applicants, even the address of respondent Nos. 1 and 2 in the Claim Petition is shown as Mhetrewasti, Chikhlee, District Pune, where the deceased son was residing before the accident. The applicants then shifted to

Kurdwadi and even the respondent Nos. 1 and 2 do not claim that they reside at Chikhlee in Pune but state that they stay with their daughter in Pune. The voters list and Aadhar card reflect the address of respondent Nos. 1 and 2 as Laul, Bodake Vasti, Solapur. It is only after filing of the present application, it is now contended that respondent Nos. 1 and 2 are residing at Pune with their daughter. The documents on record would clearly indicate that respondent Nos. 1 and 2 have landed property at Solapur and even the voter list, ration card and Aadhar card reflect the above address of Solapur.

7. It is also material to mention that respondent Nos. 1 and 2 had filed proceedings before the Civil Judge Junior Division at Madha for grant of succession certificate. In the said proceedings which are filed on 6/1/2018, the address of respondent Nos. 1 and 2 is shown as Laul, Taluka Madha, District Solapur. It can thus be seen that the contention raised by respondent Nos. 1 and 2 that they are presently residing at Pune with their daughter is made only with a view to defeat this

application for transfer.

8. No doubt respondent Nos. 1 and 2 are aged and it is very unfortunate that they have lost their son in the accident. However, it appears that after filing of the application the relations between applicant No.1 and respondent Nos. 1 and 2 are strained. It is for this reason that the present application is being opposed. The application therefore deserves to be allowed.

9. The application is allowed in terms of prayer clause (b). It is however made clear that the applicant NO.1 will co-operate with the Tribunal in the expeditious disposal of the Claim Application. Further considering the age of respondent Nos. 1 and 2, the Tribunal is requested to decide the Application expeditiously and in any event preferably within a period of 1 year from today.

10. Needless to mention that further proceedings before the MACT, Solapur will continue from the stage it had reached

before the MACT, Pune. The MACT, Pune is requested to transfer the record and proceedings as expeditiously as possible.

11. The application is allowed in the above terms.

12. The application is disposed of.

13. The parties to act on an authenticated copy of this order.

(M.S.KARNIK, J.)

Diksha
Rane
Digitally
signed by
Diksha
Rane
Date:
2019.10.11
18:45:12
+0530