

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

MISC. CIVIL APPLICATION NO. 300 OF 2019

Sau. Prajakta w/o. Kaustubh Garge. ..Applicant.

v/s.

Shri Kaustubh s/o. Sanjayrao Garge. ..Respondent.

Ms. Avantika Inamdar i/b. Mr. Rameshwar N. Gite, advocate for applicant.

Mr. Hemant Surve, advocate for respondent.

CORAM : SMT. SADHANA S. JADHAV,J.

DATE : JANUARY 14, 2020.

P. C. :

1 This is an application seeking transfer of the proceedings in Marriage Petition No. B-4/2018 pending before the Family Court at Aurangabad to the Family Court at Nashik.

2 Facts of the case are that the parties to the application got married on 23/11/2017. It is further admitted that the applicant was married to one Mr. Raj Kulkarni and that she has begotten son from her previous marriage.

3 According to the learned Counsel for the applicant,

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there was legal divorce between Mr. Raj Kulkarni and the applicant prior to her marriage with the present respondent. The same is disputed by the learned Counsel for the respondent.

4 Learned Counsel for the respondent has also submitted that in fact, by an order dated 29th March, 2019, the Principal Judge, Family Court at Aurangabad had directed that the respondent shall pay an amount of Rs. 500/- towards travelling expenses inclusive of food charges for her and one attendant. That the efforts for mediation have failed on 6 to 7 occasions. In fact, the respondent has filed a petition seeking nullity of marriage and not divorce petition.

5 Learned Counsel for the respondent also submits that there was no legal divorce between the applicant and her previous husband on the day of marriage. He also submits that he has not received any notice in respect of the proceedings under the Protection of Women from Domestic Violence Act or maintenance proceedings under section 125 of the Code of Criminal Procedure, 1973. In fact, the respondent is working in the High Court Bench at Aurangabad and it would be easier to serve a notice upon him. According to the learned Counsel for the applicant, the respondent is not accepting the notice.

6 In fact, there is no equity in favour of the applicant. She is claiming maintenance to the tune of Rs. 30,000/- by filing Petition No. 30 of 2019. That the proceedings under section 125 of the Code of Criminal Procedure, 1973 and Protection of Women from Domestic Violence Act are filed only after the respondent had filed proceedings seeking nullity of marriage on the ground of deceit.

7 In view of the above discussion, the application being sans merits stands dismissed.

[SMT. SADHANA S. JADHAV, J.]