

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

MISC. CIVIL APPLICATION NO.146 OF 2019

Mrs. SNEHAL W/O SWAPNIL PATHAK
VERSUS
SWAPNIL S/O ARUN PATHAN

...
Advocate for Applicant : Mr. L.S. Shaikh
Advocate for Respondent : Mrs. Rashmi S. Kulkarni
...

CORAM : MANGESH S. PATIL, J.

DATE : 01.09.2021

PER COURT :

Heard finally.

2. This is an application under Section 24 of the Code of Civil Procedure by a wife seeking transfer of Annulment of Marriage Proceeding instituted by the respondent husband in the Family Court at Nagpur to the Family Court at Dhule.

3. The learned advocate for the applicant would submit that even she has filed couple of proceedings, a Restitution Proceeding and a proceeding under the Protection of Women from Domestic Violence Act against the respondent in the courts at Dhule. She is residing at Dhule with her old age parents. Her address on all her documents like Adhar Card, Pan Card and Ration Card is of Dhule. It is only because her brother was in the employment at Amravati that she was for some time residing at Amravati in a rented premises with her brother. The distance between the two places,

Dhule and Nagpur is more than 500 Km. It is difficult for her to commute between the two places. She cannot bear the expenses. She being weaker between the spouses her convenience should be paramount and therefore the matter may be transferred. In support of his submission he would place reliance on catena of judgments some of which are as under :

- i. **Smt. T. Gayatri Devi V/s. Dr. Tallepaneni; 2013 (5) ALL M.R. 918**
- ii. **Reena Mehra V/s. Rohit Rai Mehra; 2003 AIR (SCW) 503**
- iii. **Sumita Singh V/s. Kumar Sanjay ; 2001 AIR (SCW) 5193**
- iv. **Vennangot Anuradha V/s. Vennangot Mohandas; 2016(1) Bom. CR 250**

4. Per contra, the learned advocate Mrs. Kulkarni would submit that in the normal course the prayer for transfer by a wife does appear to be innocuous, however, there are peculiar facts and circumstances. She would submit that the respondent has sought nullity of the marriage on the ground of fraud. The father of the applicant is suffering from Autosomal Dominant Polycystic Kidney Disorder. However the fact was never disclosed. It is a genetic disorder. Consequently, the applicant was also made to undergo medical investigation and has turn out to be suffering from the same ailment. During the process as many as five doctors from Nagpur were consulted. Considering the intricacies in the opinion given by them, all these doctors will have to be examined as witnesses and that is only feasible if the proceeding at Nagpur is allowed to be continued there.

5. The learned advocate would submit that there is ample evidence to demonstrate that even the applicant has been residing at Amravati. The summons in the proceeding at Nagpur was served to the

applicant on her address in Amravati and it is only by way of a lame excuse that the request is being made to transfer the proceeding.

6. The learned advocate would in the alternative submit that the applicant is also a highly qualified lady. She is MBA. She also commuting between Dhule and Pune in connection with her employment. She can easily commute between Dhule and Nagpur and the respondent is ready to bear the expenses if so ordered. The learned advocate also places reliance on the following decisions:

- i. **Kalpna Deviprakash Thakar (SMT) Vs. Dr. Deviprakash Thakar; (1996) 11 SCC 96**
- ii. **Priyanka Batra Vs. Manish Batra ; (2005) 12 SCC 236**
- iii. **Teena Chhabra Vs. Manish Chhabra ; (2004) 13 SCC 411**

7. I have carefully perused the papers and considered the rival submissions. A careful perusal of the application would reveal that except putting forth the ground of convenience, the applicant has not come out with any other reason for transfer of the proceeding.

8. Obviously, convenience can also be a ground for transfer of a proceeding particularly in matrimonial disputes where a destitute wife is involved. However, taking into account the fact that the applicant is a highly educated person and has been travelling between Dhule and Amravati and Dhule and Pune, she is a person who can travel on her own.

9. The decisions cited at the bar by both the sides are apparently rendered in the peculiar facts and circumstances of each case. The very nature of the transfer proceeding admits of several facts to be taken into

consideration. Since except showing inconvenience, the applicant is not coming with any other ground, in my considered view instead of transferring the matter the respondent can very well be asked to bear the expenses for her transportation. Instead of leaving it for the parties or for that matter to the Family Court At Nagpur, to determine the quantum, by rough estimate I quantify such expenses at Rs.4000/- per date in the Family Court.

10. The Application is rejected. However, the respondent shall pay to the applicant Rs.3000/- for every date she attends the matter in the Family Court At Nagpur till its decision. The Family Court at Nagpur shall see to it that this direction is obeyed punctually.

(MANGESH S. PATIL, J.)

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