

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

947 MISCELLANEOUS CIVIL APPLICATION NO.112 OF 2020

SATISH HARIBHAU SHINDE AND OTHERS
VERSUS
SHITAL SATISH SHINDE

...
Advocate for Applicants : Shri Shashikant S. Londhe
Advocate for Respondent : Shri Santosh N. Patne

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CORAM : M.G.SEWLIKAR, J.

DATE: 24th August, 2021

PER COURT:-

1. This is application for transfer of proceeding PWDVA Application No.138 of 2019 filed by the respondent in the Court of Judicial Magistrate First Class, Solapur.

2. Facts in nutshell are that applicant No.1 and respondent got married on 14th May, 2007. They have two children i.e. a daughter by name of Shruti aged 11 years and son by name of Samarth aged 9 years out of wedlock.

3. Their marital relations were good for some initial years. Thereafter, their relations soured as a result of which respondent started living separately from applicant No.1 keeping her children in custody of applicant No.1. Thereafter, applicant No.1 -

husband filed petition for divorce in Family Court, Aurangabad, which is pending. Respondent - wife filed PWDVA Application No.138 of 2019 before the Chief Judicial Magistrate, Solapur. Petitioner is seeking transfer of aforesaid PWDVA proceedings from Solapur to Aurangabad.

4. Respondent resisted this application by filing her affidavit-in-reply. Respondent denied all the allegations made in the application.

5. Heard Shri S.S.Londhe, learned counsel for the applicants and Shri S.N.Patne, learned counsel for the respondent.

6. Shri Londhe, learned counsel for the applicants submits that applicant Nos.2 and 3 are the parents of applicant No.1. Their ages are 73 and 77 respectively. Applicant No.4 is a sister of applicant No.1 and she is paraplegic in lower limbs. She is, therefore, unable to move. Applicants have annexed certificate of medical practitioner to that effect. He submits that, therefore, it is well-nigh impossible for applicant No.1 to remain present alongwith applicant Nos.2 to 4 at Solapur on each and every date. He, therefore, seeks transfer of PWDVA Application No.138 of 2019 from Solapur to Aurangabad. He submits that he is

ready to pay travelling charges and diet money of respondent.

7. Shri Patne, learned counsel for the respondent submitted that respondent is staying at Solapur. It will be difficult for her to travel alone from Solapur to Aurangabad. He, therefore, prayed for rejection of the application.

8. It is not seriously disputed that applicant Nos.2 and 3 are aged parents of applicant No.1. It is also not seriously disputed that applicant No.4 is paraplegic in lower limbs. Having regard to physical condition of applicant Nos.2 to 4, it is clear that they are not in a position to move. Therefore, it will not be possible for applicant Nos.2 to 4 to remain present in the Court at Solapur. In addition to this, custody of children aged 11 years and 9 years is with applicant No.1. He cannot leave children with applicant Nos.2 to 4 because of their physical condition. In view of this, it will be in the fitness of things if proceedings of PWDVA Application No.138 of 2019 are transferred from Solapur to Aurangabad.

9. Shri Patne, learned counsel for the respondent at this stage submits that respondent will have to be accompanied by some family members.

10. Considering the above circumstances, I deem it appropriate to direct applicant No.1 to pay travelling charges of respondent and her companion with diet money of Rs.250/- each.

11. In the light of this, application is allowed. PWDVA Application No.138 of 2019 is withdrawn from the file of Judicial Magistrate First Class, Solapur and is transferred to the Court of Judicial Magistrate First Class, Aurangabad. Applicant No.1 shall pay travelling charges of respondent and her companion and also diet money of Rs.250/- each.

12. With these observations application is disposed of.

(M.G.SEWLIKAR)
JUDGE

SPT