

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

929 MISCELLANEOUS CIVIL APPLICATION NO.166 OF 2019

UTKARSH BRAMHANAND VINKAR AND ANOTHER
VERSUS
BRAMHANAND BHIMRAO VINKAR

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Mr. S.S. Panale, Advocate for the applicants.

Mr. Rahul Awasarmal, Advocate for the respondent.

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CORAM : **N.B. SURYAWANSHI, J.**

DATE : 30-09-2021

ORDER :

1. This application filed under Section 24 of the Code of Civil Procedure, seeks transfer of Guardians and Wards Application No. 40/2019 pending before the District Judge-1, Mehekar, District Buldana to District Judge, Aurangabad.

2. The marriage between wife and husband took place on 18.05.2010. They are blessed with two children namely Utkarsh (applicant), aged 6 years and daughter Unnati, aged 2 years. Due to marital discord the wife is staying alongwith her two minor children near the house of her parents at Aurangabad. The husband has filed Guardians and Wards Application No. 40/2019 in the Court of District Judge-1, Mehekar, District Buldana seeking custody of son Utkarsh. The wife is seeking transfer of these proceedings to Aurangabad on the ground that Mehkar is at a distance of almost 200 kms from Aurangabad and the wife has to travel alongwith her

two minor children and parent or relative to attend the proceedings at Mehkar. She further contends that she has no means of income and she is entirely dependent on her parents for livelihood. It is her case that she has filed proceedings under The Protection of Women From Domestic Violence Act, 2005 bearing P.W.D.V.A. No.704/2018 which is pending in the Court of the Judicial Magistrate, First Class at Aurangabad. In the said proceedings the husband and his relatives have caused their appearance and they are attending the Aurangabad Court since April 2019. The wife therefore claims transfer of the proceedings from Mehkar to Aurangabad.

3. In support of the application, the learned Advocate for applicant / wife relied on 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) Sumita Singh vs. Kumar Sanjay, (2001) 10 SCC 41 : AIR 2002 SC 396
- (vi) Mahadevi Mehtre vs. Gopal, 2015 (5) AIR Bom. 250,
- (vii) Mona Aresh Goel vs. Aresh Satya Goel, 2000 (9) SCC 255 : AIR 2000 SCW 2652,
- (viii) Ravinder Kaur vs. Hitinder Singh AIR 2000 SC 3403,
- (ix) Rena Gautam vs. Vinod Gautam AIR 2000 SC 3405,
- (x) Reena Mehra vs. Rohit Rai Mehra AIR 2003 SC 1002,
- (xi) Rakhi Banerjee vs. Subhankar Mukherje AIR 2009 SC 928,

- (xii) T.Gayatri Devi vs. Tallepaneni Sreekanth 2013 (6) Bom. C.R. 119 (SC),
- (xiii) Anita Balkrishna Barge vs. Balkrishna Sopan Barge 2011 (3) Bom. C.R. 866 (Aurangabad Bench) and
- (xiv) Smita Dhananjay Patil vs. Dhananjay Krishnakumar Patil 2013 (5) Bom.C.R. 694 (Aurangabad Bench).

4. Learned Advocate for the respondent vehemently opposed the prayer contending that he is ready and willing to bear the travelling expenses of wife and her parent / relative.

5. In view of settled legal position emerging from the rulings cited by the applicants and considering the fact that the wife cannot be made to travel at the distance of 200 kms alongwith two minor children and parents / relative and as the proceedings filed by the wife under The Protection of Women From Domestic Violence Act are already pending at Aurangabad and the husband and his relatives have already appeared and are attending the same, in my view the applicants have made out a case for transfer of the proceedings at from Mehkar to Aurangabad.

6. In the result, application is allowed in terms of prayer clause 'B'. Guardian and Wards Application No. 40/2019 pending before the District Judge-1, Mehkar, District Buldana is transferred to the Court of District Judge, Aurangabad.

(N.B. SURYAWANSHI, J.)