

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

929 MISC.CIVIL APPLICATION NO.251 OF 2019

PRAGATI SUJIT GAIKWAD
VERSUS
SUJIT VILAS GAIKWAD

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Advocate for Applicant : Mr. Kulkarni Abhishek.

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CORAM : V. K. JADHAV, J.
DATE : 12.01.2021

PER COURT :-

1. Heard finally at the stage of admission.
2. By order dated 08.01.2020, by referring the e-mail sent by the respondent / husband, this Court (Coram : Rohit B. Deo, J.) has adjourned the case till 22.01.2020 to enable the respondent / husband to appear and assist the Court. It has been specifically observed in the said order that the respondent / husband is aware of the pendency of the present application. I also perused the said e-mail, which is a part of the record of the MCA wherein, the respondent / husband has referred the contentions raised by the applicant / wife in this application seeking transfer of the Marriage Petition.

3. The learned counsel submits that the applicant / wife has no independent source of income and she is a house wife. The applicant / wife has a female child, one year of age. There is no male member in the family. The father of the applicant died long back and the applicant is residing with her old aged mother. The applicant and her minor daughter are totally depend upon her mother, since the mother is doing the labour work in agricultural field to maintain the family. The learned counsel submits that there is a distance of 480 k.m. between Omerga to Kalyan. The respondent / husband has filed the Marriage Petition No.629 of 2019 before the 2nd Joint Civil Judge Senior Division, Kalyan for restitution of the conjugal rights. The learned counsel submits that in view of the above difficulties, the said marriage petition may be transferred to the Civil Judge Senior Division, Omerga.

4. The learned counsel submits that the respondent / husband is under the private employment and is able bodied person. He can travel the said distance to attend the court dates at Omerga.

5. The learned counsel in order to substantiate his contention placed his reliance on the following cases :

- i) Sumita Singh Vs. Kumar Sanjay and another, reported in AIR 2002 SC 396;
- ii) Mahadevi Gopal Mehetre vs. Gopal Prabhakar Mehetre, reported in 2015 (5) AIR Bom R 250;
- iii) Mona Aresh Goel vs. Aresh Satya Goel, reported in AIR 2000 SC 3512(1);
- iv) Ravinder Kaur vs. Hitinder Singh, reported in AIR 2000 SC 3403(2);
- v) Renu Gautam vs. Vinod Gautam, reported in AIR 2000 SC 3405 (1);
- vi) Anjali Ashok Sadhwani vs. Ashok Kishichand Sadhwani, reported in AIR 2009 SC 1374;
- vii) Vaishali Shridhar Jagtap vs. Shridhar Vishwanath Jagtap, reported in AIR 2016 SC 3584;
- viii) Reena Mehra vs. Rohit Rai Mehra and another, reported in AIR 2003 SC 1002;
- ix) Rakhi Banerjee vs. Subhankar Mukherjee, reported in AIR 2009 SC 928;
- x) T. Gayatri Devi (Smt) vs. Tallepaneni Sreekanth (Dr.), reported in 2013 (5) All.M.R. 918;

- xi) Anita Balkrishna Barge vs. Balkrishna Sopan Barge, reported in 2010 (6) All M.R. 685;
- xii) Smita Dhananjay Patil vs. Dhananjay Krishnakumar Patil, reported in 2014 (1) AIR Bom R. 450;
- xiii) Kalpana Pankaj Rozatkar vs. Pankaj Supadu Rozatkar, reported in 2013 (5) AIR Bom R 51;
- xiv) Sayali Swapnil Kuber vs. Swapnil Harischandra Kuber, reported in 2014 (1) Mh.L.J. 584;

6. It appears that the applicant is helpless and having no independent source of income. She is having a small sucking female child. It is not possible for her to cross the distance of 480 k.m. to attend the court dates at Kalyan. Furthermore, there is no male member in her family to accompany her. The applicant cannot keep the said small baby with her mother. The applicant has no father.

7. In all the cases relied upon by the learned counsel for the applicant / wife, it is reiterated by almost all the courts that, in matrimonial proceedings, the convenience of the wife is paramount consideration. Thus, considering the entire aspect of the case, I proceed to pass the following order :

ORDER

- (I) Misc. Civil Application is allowed in terms of prayer clause 'B'.
- (II) Misc. Civil Application is accordingly disposed off.

(V. K. JADHAV, J.)

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vmk/-