

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

MISCELLANEOUS CIVIL APPLICATION NO.117 OF 2020

Swati Kamlesh Saryawanshi Applicant
@ Swati Nilkanthrao Pohare
(Before Marriage)

Vs.

Kamlesh Chandrakant Suryawanshi Respondent

Mr. Prabhanjan Gujar for Applicant.
Mr. Tejas D. Deshmukh for Respondent.

Coram : NITIN W. SAMBRE, J.
Date : 1ST MARCH, 2021

P.C.:

1. During the last hearing, the parties herein agree for the arrangement viz. the Applicant/wife shall visit Family Court, Solapur in pending proceedings being Petition No. A-87 of 2020 on the file of Family Court Non-Applicant/husband shall pay travel charges and out of pocket expenses of Rs.15,000/-.
2. There appears to be some communication gap and as such amount could not be paid to the Applicant/wife.

3. Learned counsel for the Non-Applicant/husband, on instructions, assures that the said amount of Rs.15,000/- will be deposited in the Family Court, within a period of one week from today, to which the Applicant/wife will be entitled to withdraw.

4. The Applicant/wife is seeking transfer from Family Court, Solapur to the Court of Civil Judge, Senior Division, Akola, as according to her, even though she is in State Government service, her parental home is at Paras, Taluka Balapur, District Akola. According to her, she is custodian of daughter, aged about 1 ½ years and as such even if she will be posted by virtue of her status as Government servant anywhere in the State, it will be convenient for her to pursue the proceedings at Akola.

5. According to her, the efforts on the part of rival parties to convert pending proceedings before the Family Court Solapur into the proceedings under Section 13 (1)(b) i.e. Divorce by Mutual Consent, have not been materialised. In that view of the matter, according to

her, the proceeding needs to be transferred to the Court of Civil Judge, Senior Division, Akola.

6. While countering the submissions, the Counsel for the Non-Applicant/husband would urge that he is ready and willing to pay the travel and out of pocket expenses, however, the proceedings may not be transferred as prayed. According to him, the hardships will be equally faced by the Non-Applicant, if he is made to travel from Solapur to Akola.

7. In the aforesaid background, he sought dismissal.

9. Considered submissions.

10. It appears that efforts made by the respective counsel, some indulgence shown in this Court in the matter of settlement of divorce by mutual consent has not materialised.

11. Be that as it may, this Court is required to be sensitive to the fact that the Applicant-wife is a serving lady, she is custodian of daughter aged about 1 ½ years and as such she will be facing more

hardships than that of the Non-Applicant, who works as a Contractor at Solapur.

12. A statement is made for the Applicant on instructions that even if the Applicant/wife is posted anywhere in the State of Maharashtra by virtue of her status as a Government servant, the same will not be made a ground in future, seeking transfer of very same proceedings is accepted as an undertaking.

13. In that view of the matter, considering hardships in favour of the Applicant/wife, the application is allowed in terms of prayer clause (a).

(NITIN W. SAMBRE, J.)