

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

1041 MISC.CIVIL APPLICATION NO.155 OF 2018

**SULAKSHANA SACHIN MAHSKE
VERSUS
SACHIN SUKHDEV MAHSKE**

...
Advocate for Applicant : Mr. Omprakash U. Waghmare
h/f. Mr. Kore Ganesh J.
Advocate for Respondent : Mr. Deshmukh Rajendra S. (Senior Counsel)
h/f. Mr. Devang R. Deshmukh
...

CORAM : SHAILESH P. BRAHME, J.

DATE : 01st DECEMBER, 2023

PER COURT :

1. Heard the learned counsel for both the sides finally.
2. By way of this application, the applicant is seeking transfer of the proceedings of dissolution of marriage filed before the Civil Judge Senior Division, Aurangabad, to Civil Judge Senior Division, Omerga, District Osmanabad.
3. The learned counsel for the applicant submits that it is not possible for the applicant to attend the proceedings by travelling from Aurangabad to Omerga.
4. The learned counsel for the respondent submits that the application is frivolous. The applicant is able bodied person and is in a position to attend the proceedings at Aurangabad. She has suppressed material facts. The conduct of the applicant was objectionable. No

discretion can be exercised in her favour. He further submits that his client is ready to pay the expenses for travelling. Therefore, no case is made out for transfer of the proceedings. He seeks reliance upon judgment rendered by Supreme Court in the matter of *Anindita Das Versus Srijit Das*, **2006 (9) SCC 197**. He relied upon paragraph nos. 4 and 5.

5. I have considered rival submissions. I record following findings :

- i. It is inconvenient for the applicant to travel and attend the proceedings at Aurangabad.
- ii. Her sufferings and hardship are apparent.
- iv. There is nothing on record to show that the respondent is unable to attend the proceedings by travelling from Aurangabad to Omerga.
- v. The applicant has initiated proceedings at Omerga against the respondent.

6. A useful reference can be made to the law laid down by the Supreme Court and this Court in the following matters :

- a) *Sumita Singh Versus Kumar Sanjay*, **2002 AIR (SC) 396** ;
- b) *Soma Choudhury Versus Gourab Choudhury*, **(2004) 13 Supreme Court Cases 462** ;

- c) *Sangamitra Ramakant Royalwar Versus Ramakant Gangaram Royalwar*, **2009 (1) Mh.L.J. 303 ;**
- d) *Anita Balkrishna Barge Versus Balkrishna Sopan Barge*, **2011 (1) Mh.L.J. 518 ;**
- e) *Mahadevi Gopal Mehetre Versus Gopal Prabhakar Mehetre*, **2016 (4) All.M.R. 599 ;**
- f) *Vaishali Shridhar Jagtap Versus Shridhar Vishwanath Jagtap*, **2016 AIR (SC) 3584 ;**
- g) *Pooja Rohan Jadhav Versus Rohan Ramesh Jadhav*, **order passed by High Court, Bench at Aurangabad in MCA No. 171 of 2018 ;**
- h) *Ashwini Kailas Patil Versus Shivajirao Anandrao Gaekwar*, **order passed by High Court, Bench at Aurangabad in MCA No. 46 of 2020.**

7. Considering over all circumstances of the matter and the law laid down as referred in above paragraph, I am not inclined to accept the submissions of learned counsel for the respondent.

8. For the reasons stated above, I pass following order :

ORDER

- i. The Miscellaneous Civil Application is allowed.
- ii. The HMP No. 352 of 2016 pending before the Civil Judge Senior Division Aurangabad, shall stand transferred to Civil Judge Senior Division, Omerga, District Osmanabad.
- iii. An endeavour be made to decide the proceedings finally as expeditiously as possible.

iv. The concern Court shall transmit the papers immediately.

v. The parties to appear before the Court at Omerga on 21st December, 2023.

vi. All the proceedings pending at a place where the applicant is residing be preferably posted on same date.

[SHAILESH P. BRAHME, J.]