

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

MISC.CIVIL APPLICATION NO. 168 OF 2023

MANISHA S/O MANISH BHAROTE
VERSUS
MANISH RAJU BHAROTE

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Advocate for Applicant : Mr. Akash Ingale h/f Mr. Kedar Balbhim R.
Advocate for Respondent : Mr. Kanchan D. Naiknaware h/f Mr. Mayur
Bharatrao Borse

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CORAM : SHAILESH P BRAHME, J.

DATE : 7th DECEMBER 2023.

Per Court :

1. Heard the learned Counsel for both the sides.
2. By way of this application, the applicant is seeking transfer of the proceeding bearing HMP No.A-333/2022 for restitution of conjugal rights filed by the respondent/husband before the learned Family Court, Akola to the learned Civil Judge, Senior Division, Bhusawal, Dist. Jalgaon.
3. The learned Counsel for the applicant submits that it is not possible for the applicant to attend the proceedings by travelling from Bhusawal to Akola. She has ailing parent and she cannot travel alone.
4. The learned Counsel for the respondent vehemently opposed the application. He submits that the application is frivolous. The applicant

is able bodied person and is in a position to attend the proceedings at Akola. She has suppressed material facts. The conduct of the applicant was objectionable. No discretion can be exercised in her favour.

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

- (i) It is inconvenient for the applicant to travel and attend the proceedings at Akola. She has two children out of the wedlock.
- (ii) She has no source of income and she is staying with her parents.
- (iii) 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 Akola to Bhusawal.
- (v) The applicant has initiated proceedings at Bhusawal 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 Vs. Kumar Sanjay reported in (2001) 10 SCC 41.
- B. Soma Chaudhury Vs. Gourab Choudhaury reported in (2004) 13 SCC 462.
- C. Vaishali Shridhar Jagtap Vs. Shridhar Vishwanath Jagtap reported in (2016) 14 SCC 356.
- D. Sangamitra Ramakant Royalwar Vs. Ramakant Gangaram Royalwar reported in 2009 (1) Mh.L.J. 303.
- E. Anita Balkrishna Barge Vs. Balkrishna Sopan Barge reported in 2011(1) Mh.L.J. 518.

- F. Mahadevi Gopal Mehetre Vs. Gopal Prabhakar Mehetre reported in 2016(4) All M.R. 599.
 - G. Judgment and order dated January 11, 2019 in Misc. Civil Application No.171/2018 in the matter of Pooja Rohan Jadhav Vs. Rohan Ramesh Jadhav.
 - H. Judgment and order dated 01 July 2022 in Misc. Civil Application No.46/2020 in the matter of Ashwini Kailas Patil Vs. Shivajirao Anandrao Gaekwar.
7. For the reasons stated above, I pass following order.

ORDER

- a. The Miscellaneous Civil Application is allowed.
- b. The proceeding bearing H.M.P No. A-333/2022 pending before the learned Family Court at Akola shall stand transferred to the learned Civil Judge, Senior Division, Bhusawal, Dist. Jalgaon.
- c. An endeavour be made to decide the proceedings finally as expeditiously as possible.
- d. The concern court shall transmit the papers immediately.
- e. The parties to appear before the learned Civil Judge, Senior Division, Bhusawal, Dist. Jalgaon on 09.01.2024.
- f. All the proceedings pending at a place where the applicant is residing be preferably posted on same date.

[SHAILESH P BRAHME, J.]

Najeeb.