



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

61 MISC.CIVIL APPLICATION NO. 11 OF 2020

MANGESH ASHOKRAO DHAGE
VERSUS
YOGITA MANGESH DHAGE

...
Advocate for Applicant : Mr. Kadarale Nitin S
Advocate for Respondent : Party in Person
...

WITH

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MISC.CIVIL APPLICATION NO. 77 OF 2020

YOGITA MANGESH DHAGE @ YOGITA BURSE
VERSUS
MANGESH ASHOKRAO DHAGE

...
Advocate for Applicant : Party in Person
Advocate for Respondent : Mr. Kadarale Nitin S
...

CORAM : ARUN R. PEDNEKER, J.

DATE : 29th JANUARY, 2024

PER COURT:

Miscellaneous Civil Application No.77 of 2020

1. Heard.
2. The Miscellaneous Civil Application No.77 of 2020 is filed for transferring of the divorce proceedings filed by the husband from Pune to Ahmednagar. There is some history as regards the proceedings at Pune

bearing Hindu Marriage Petition No.1303 of 2015 is concerned. The Miscellaneous Civil Application No.133 of 2016 is filed by the wife to transfer the proceedings from Pune to Ahmednagar. The same was disposed of by order dated 29.06.2017, whereby the application was dismissed, however, it was directed that the husband would pay the wife Rs.6,000/- for each date. In the event, the husband fails to deposit the amount then the application would be allowed in terms of prayer clause "B".

3. Thereafter, an application was moved by the husband seeking variation of the order dated 29.06.2017, contending therein that the wife is now residing with the husband at the husband's flat in Pune and that mediation between the parties are going on, as such, he requested this court that the direction to deposit Rs.6000/- does not survive and be withdrawn and, thus, this court by order dated 06.02.2019, modified the earlier order passed by this court dated 29.06.2017, wherein the condition to pay Rs.6000/- to the wife on every date of appearance was withdrawn. However, further, at para 5 of the order dated 06.02.2019, this court observed as under:-

"5. Needless to state, in the event of any change in the circumstances in future, the parties would be at liberty to avail o such remedies as may be permissible in law."

4. The present application is now filed by the wife contending that in terms of the liberty granted the application is filed. She submits that after July 2021, by virtue of the transfer order she is now posted in Ahmednagar district and that she has a child of 8 years with whom she cannot travel to Pune. She submits that now there are changed circumstances and she is now not residing at Pune.

5. In view of the changed circumstances, she submits that in view of the earlier order passed by this court dated 29.06.2017, the husband be either directed to pay Rs.6000/- for each date, towards travel and out of pocket expenses or in alternate she submits that the proceedings at Pune be transferred to Ahmednagar.

6. The learned counsel appearing for the husband has not disputed that now the wife is not residing at the flat at Pune. He submits that the proceedings at Pune may not be transferred to Ahmednagar.

7. The learned counsel for the husband submits that the husband is not aware, whether the wife is not staying in Pune. The husband has however not disputed that the wife is not staying in the flat of the husband at Pune. I have no reason to disbelieve the case of the wife that she is now residing in Ahmednagar district, where she is transferred.

8. Thus, I deem it appropriate to direct the husband to pay Rs.6000/- for travel and out of pocket expenses from August 2021, on every date the wife remained present in the court at Pune, as directed in the order dated 29.06.2017 and, thereafter, on such date when the wife attends the hearing at Pune.

9. With the above directions, the present Miscellaneous Civil Application No.77 of 2020 filed by the wife stands disposed of.

Miscellaneous Civil Application No.11 of 2020

10. Miscellaneous Civil Application No.11 of 2020 is filed by the husband. The respondent wife has filed petition for restitution of conjugal rights at Ahmednagar. The husband has filed an application seeking transfer of the restitution petition filed by the wife in MCA 11 of 2020, from Ahmednagar to Pune.

11. The respondent wife is in Government Service working as a Medical Officer. She also has custody of 8 years old child, which she has to take care at Ahmednagar. The husband is in a private employment with a company, as such, there is no difficulty to the husband to travel and attend the proceedings at Ahmednagar. Thus, the civil application for transfer filed by the husband cannot be allowed. However, liberty is granted to the husband to seek leave of the court at Ahmednagar to

appear on Video Conference and conduct the proceedings from Pune. The Ahmednagar court to make an endeavour to allow the husband to appear on Video Conference and conduct the proceedings on Video Conference. The Pune Court also to provide the necessary facility to the husband to attend the court proceedings at Ahmednagar.

12. With the above directions, the Miscellaneous Civil Application No.11 of 2020 filed by the husband also stands accordingly disposed of.

[ARUN R. PEDNEKER, J.]

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