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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

VASANT
ANANDRAO
IDHOL

MISCELLANEOUS CIVIL APPLICATION NO.448 OF 2022

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VASANT
ANANDRAO IDHOL
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Pranav J. Hulikar & Ors.	...Applicants
V/s.	
Urmila S. Dodmani @ Urmila M. Hulikar	...Respondent

Mr.Prakash U. Sutar for the Applicants.

Mr.Rajat V. Dighe i/b Mr.Sameer A. Kumbakhoni for the Respondent.

CORAM : MILIND N. JADHAV, J.
DATE : 23RD AUGUST, 2024.

P.C. :-

1. Heard both the advocates for parties. Miscellaneous Civil Application is pending hearing for last 2 years. It seeks transfer of the Special Civil Suit No.86 of 2022, from the Court of Civil Judge (Senior Division), Solapur to Civil Judge (Senior Division) Kalyan. Application is filed by five persons, who are all men between the age group 35 to 46 years. They are Defendants in Special Civil Suit filed by the Respondent in the Civil Court at

Solapur. Suit is filed in respect of entitlement to two suits properties, one being a flat situated in Kalyan, whereas the second property being a house property situated in Solapur. Suit is filed by the Respondent, who is lady and housewife aged 51 years old.

2. Mr.Sutar, learned advocate for the Applicants has drawn my attention to the grounds of hardships prayed for in the Application seeking transfer of proceedings.

3. Per contra Mr.Dighe would submit that one of the properties is situated in Kalyan. He would submit that cause of action for filing the suit emanated and started in Kalyan and therefore the witnesses of Defendants are all based in Kalyan. Next he would submit that husband of Plaintiff i.e. Respondent before me is a person against whom one F.I.R. has been registered in Solapur Police Station and there is apprehension to the life and body of Defendants from him. *Prima-facie* these are the only three grounds on which Miscellaneous Civil Application is filed. According to me, all these grounds are absolutely innocuous. For the purpose of transfer, none of the grounds aid

the case of applicants. If applicants have any reasonable apprehension from any person, the applicants desirably know what are their rights and they should invoke their rights with the law enforcement against if they face any threat. Insofar as the issue of hardship is concerned, none whatsoever is made out from the application as also the grounds in the Application.

4. Respondent being a lady and having filed the special civil suit cannot be put to greater hardship to travel from Solapur to Kalyan to attend the suit hearing as desired by applicants. Learned advocate for Applicants would refer to and rely upon a decision of the Supreme Court passed in the year 1990 in the case of *Dr.Subramaniam Swamy vs. Ramakrishna Hegde*, reported in *(1990) 1 SCC 4*, in support of his submissions to contend that the entire oral and documentary evidence in respect of Defendants' defence is available in Kalyan and therefore, if the trial proceeds in Kalyan, it would be amenable to them to produce the voluminous evidence, otherwise they will have to carry the evidence to Solapur along with several witnesses and will have to travel to Solapur to give

evidence. The decision of the Supreme Court in the case of *Dr.Subramaniam Swamy vs. Ramakrishna Hegde*, (supra) is wholly in-applicable to the facts and circumstances of the present case, as also the reliance by the learned advocate on the aforementioned decision is completely misplaced. The said decision was passed in facts which were completely different than in the present case. Merely relying on a particular sentence in the decision of the Supreme Court without adhering to the facts of the case and distinguishing them is one of the fallacy which has been observed by this Court in a lot many matters argued by many advocates at the bar. Such is the present case also.

5. Miscellaneous Civil Application is wholly misconceived and cannot be countenanced at all. The application stands dismissed.

(MILIND N. JADHAV, J.)