



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

902 CRA NO. 6 OF 2024

KOMAL CHETAN CHAVAN
VERSUS
CHETAN YUVRAJ CHAVAN

...
Advocate for the Applicant : Mr. A. B. Girase and Mr. Ashutosh
C. Sisodiya
Advocate for Respondent : Mr. Pushkar S. Shendurnikar
...

CORAM : S. G. CHAPALGAONKAR, J.

Dated : 30.01.2025

PER COURT :-

1. The applicant/Original defendant has filed a petition bearing HMP No. 242 of 2021 before the Civil Judge, Senior Division, Chalisgaon for grant of decree of divorce under Section 13 (1) of the Hindu Marriage Act, 1955. The applicant/defendant filed an application under Order VII Rule 11 of the Code of Civil Procedure, 1908, seeking rejection of plaint on ground that the Court at Chalisgaon do not possess territorial jurisdiction to try and entertain petition. It is submitted that Court at Chalisgaon is not a place where parties

have lastly resided together. Trial Court observing that parties have resided together in Chalisgaon as well as in Mumbai entertained petition. Consequently, rejected application Exh. 39 filed by the applicant.

2. Learned Advocate appearing for applicant submits that in view of Section 19 (3) of the Hindu Marriage Act, the Court, where parties have resided together lastly, would have jurisdiction to entertain the proceedings. In present case, from pleading in petition itself it can be gathered that parties lastly resided together at Mumbai and therefore, the Court at Chalisgaon sans jurisdiction to entertain proceeding. In support of his submission he relied upon following judgments :

"(a) Smt. Jeewanti Pandey Vs. Kishan Chandra Pandey - reported in AIR 1982 SC 3,

(b) Smt. S. Saroja Vs. P.G. Emmanua – reported in AIR 1965 Mysore 12,

(c) Pushpa Datt Mishra Vs. Smt. Archana Mishra alias Premvati Choube – reported in AIR 1992 M.P. 260, Madhya Pradesh High Court,

(d) Vaishali Manish Manekar Vs. Manish Motiram Manekar – reported 2003 (3) Mh.L.J. 171

(e) Kishori Bari Arun Kumar Varma Vs Arun Kumar Raghunath Prasad Varma – reported in 1998 (1) M.P.L.J. 619"

3. Per Contra, Shendurnikar, learned Advocate

appearing for respondent points out that applicant herself filed MCA No. 105 of 2024 before this Court seeking transfer of HMP No. 242 of 2021 from the Court of Chlisgaon to the Family Court at Thane. This Court allowed the application and transferred the proceedings to the Family Court at Thane vide order dated 19.07.2024 passed in MCA No. 105 of 2024.

4. Admittedly now proceeding is taken up before the Family Court at Thane, at the instance of applicant. Pertinently, while passing impugned order, learned Civil Judge, Senior Division, Chlisgaon made observations that it would be open for respondent to make application for transfer of proceedings citing reasons of her convenience. Applicant has taken clue from observations and resorted to file transfer proceedings which has been allowed. It is therefore, clear that now proceeding is transferred before competent Court. Now there is reason to delve into controversy. No purpose would be served by entertaining the present Civil Revision Application. The legal issues posed before this Court rendered academic. In that view of the matter, Civil Revision Application stands rejected.

(S. G. CHAPALGAONKAR)
JUDGE