



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

MISC. CIVIL APPLICATION NO. 837 OF 2023

Diksha wd/o Naval Kachhawal Vs. Rajshri wd/o Kailash Kachhawal and anr.

WITH

MISC. CIVIL APPLICATION NO. 838 OF 2023

Diksha wd/o Naval Kachhawal Vs. Prashant Komal and Ors.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Mr. Parita N. Lakhani, Advocate for applicant.
Mr. Parimal U. Kavishwar, Advocate for non-applicant
Nos.1 & 2 in MCA No.837/2023.
Ms. S.H. Bhatia, Advocate for non-applicant No.3 in MCA
No.838/2023.

CORAM : MRS. VRUSHALI V. JOSHI, J.

DATE : 09.07.2025.

Both the applications are filed to transfer the proceedings, which are pending before the Civil Judge Senior Division, Akola and Motor Accident Claims Tribunal, Akola to Kelapur Court at District Yavatmal.

2. The applicant in both the cases is the daughter-in-law of non-applicant No.1 and the sister-in-law of non-applicant No.2. It is the case of applicant that two proceedings are pending before

the Akola Court; one is before the Motor Accident Claims Tribunal, Akola and another is the Civil Suit for Partition filed by the non-applicants and Motor Accident Claim is filed by both the parties jointly. As in Motor Accident, the husband of applicant No.1, who is the son of non-applicant No.1 and husband of non-applicant No.1 also died and the claim petition is pending before the Motor Accident Claims Tribunal, Akola. The witnesses are examined in the said matter.

3. The another application is for partition. The applicant, who is the daughter-in-law of non-applicant No.1, is staying at Pandharkawda and she has stated that she will not get justice if the matters are pending before the Civil Judge Senior Division, Akola, as the non-applicant No.1 is giving threats and she is filing complaints against the applicant and her lawyer also, it is not possible for her to contest the matter before the Civil Judge Senior Division, Akola and she will not get justice.

4. It is submitted by the learned counsel for the applicant that in the matter which is pending before the Motor Accident Claims Tribunal, Akola, she was not allowed to enter the witness box, and the evidence is closed. As she has made allegations

against her Advocate and the FIR is lodged against the applicant and her Advocate, nobody is ready to appear on her behalf and, therefore, prayed to transfer the matter from Motor Accident Claims Tribunal, Akola to Kelapur Court.

5. She has relied on the judgments of this Court and the High Court of Andhra Pradesh stating that the territorial jurisdiction will not be the hurdle for passing the transfer order from one place to another place.

6. The learned counsel for the non-applicants has stated that the applicant has made allegations against the non-applicant No.1, and also beat her, by entering in her house, therefore, non-applicant was compelled to lodge the FIR against the applicant.

7. The joint application is filed before the Tribunal and she can contest the matter through her Advocate and also through Video-conferencing (V.C.). Her physical presence is not required. In Civil Suit also her physical presence is not required, she can contest through her lawyer. Hence, prayed to reject the application as it is the question of territorial jurisdiction.

8. As the property is situated within the jurisdiction of Akola Court and with respect to Motor Accident Claims Tribunal, Akola, the accident took place within the jurisdiction of Akola, therefore, the Akola Court has territorial jurisdiction and hence, prayed to reject the application.

9. Heard both the learned counsel for the respective parties.

10. On the basis of the F.I.R. lodged against the applicant and her lawyer, the applicant has filed this application to transfer the matter to Kelapur Court as it is stated that, she will not get justice. Two proceedings are pending, one is before the Motor Accident Claims Tribunal, Akola and another is before the Civil Judge Senior Division, Akola. The accident claims petition is jointly filed by both the parties as the husband of non-applicant No.1 and the applicant died in said accident and the stage of the petition is part heard evidence.

11. She can contest through her Advocate and if she is afraid of any untoward incident, she can claim the Advocate from legal-aid. She can appear through Video-Conferencing (V.C.) as the facility is already there.

12. As both the proceedings are pending and the question of territorial jurisdiction is there and only because one FIR is lodged, it cannot be the ground to transfer the matters, which are pending before the Civil Judge Senior Division, Akola and Motor Accident Claims Tribunal, Akola to the file of Kelapur Court at District Yavatmal.

13. The Misc. Civil Application No.837 of 2023 and Misc. Civil Application No.838 of 2023 are rejected.

(Mrs. Vrushali V. Joshi, J.)