

Karnataka High Court Shweta W/O Gangadhar Mamadapur @ ... vs Gangadhar S/O Saburao Mamadapur @ ... on 16 March, 2016 Author: S.Sujatha

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IN THE HIGH COURT OF KARNATAKA

KALABURAGI BENCH

DATED THIS THE 16TH DAY OF MARCH 2016

BEFORE

THE HON'BLE MRS. JUSTICE S.SUJATHA

CIVIL PETITION NO.200019 OF 2014

BETWEEN:

SHWETA W/O. GANGADHAR MAMDAPUR @ CHALAWADI AGE: 27 YEARS, OCC: H.H.WORK, R/O. C/O. RAMESH H. KANT DY. CHIEF OFFICER NEKRTC, OFFICERS QUARTERS NO.3, VIDYANAGAR GULBARGA - 585 102 ... PETITIONER

(BY SRI. SUBHASH MALLAPUR & SMT. RATNA SHIVAYOGIMATH, ADVOCATES)

AND:

GANGADHAR S/O. SABURAO MAMDAPUR @ CHALAWADI AGE: 31 YEARS, OCC: PRIVATE SERVICE R/O. PLOT NO.84, 'GANGADHAR NILAYA', NEAR TULAJABHAVANI NURSING COLLEGE, GANGYABAVADI BIJAPUR - 586 101 NOW AT BANGALORE ... RESPONDENT

(BY SRI. AMEET KUMAR DESHPANDE, ADVOCATE) 2

THIS PETITION IS FILED U/S. 24 OF CPC, PRAYING TO TRANSFER

THE CASE IN MC NO.175/2013 ON THE FILE OF THE HON'BLE JUDGE, FAMILY COURT, BIJAPUR, TO FAMILY COURT AT GULBARGA, IN THE INTEREST OF JUSTICE AND EQUITY.

THIS PETITION COMING ON FOR ADMISSION, THIS DAY, THE

COURT MADE THE FOLLOWING:-

ORDER

The respondent herein filed M.C. No.175/2013 under Section 9 of the Hindu Marriage Act, 1955, seeking for a decree of restitution of conjugal rights and for a direction to the petitioner herein to join with the husband - Respondent in order to lead marital life with him. 2. This petition is filed by the wife seeking for transfer of the case in MC No.175/2013 pending on the file of the Family Court, Vijayapura to the Family Court at Kalaburagi. 3. Heard the learned Counsel appearing for the parties. 4. Learned Counsel for the Petitioner would contend that the wife is a nursing mother residing at Kalaburagi finds it inconvenient to travel with her baby to Vijayapura on every hearing date to defend the case initiated by the respondent in MC No.175/2013 before the Family Court at Vijayapura. It is also contended that the respondent is financially sound person and no prejudice will be caused to him if the proceedings are transferred to Kalaburagi. Moreover, Vijayapura being very near to Kalaburagi and as such no inconvenience would be caused to him. On the other hand, the petitioner would have to face the inconvenience if the proceedings are held at Vijayapura. 5. Per contra, learned Counsel appearing for the respondent contended that the father of the petitioner is a retired Law Officer from KSRTC and if the proceedings are transferred to Family Court, Kalaburagi, there is possibility of the father being interfering with the smooth sailing of the proceedings, which may adversely affect the rights of the respondent-husband. 6. As could be seen, it is only an apprehension of the respondent that the father of the petitioner may interfere with the proceedings if, the matter is transferred to the Family Court at Kalaburagi and the said apprehension is without any basis and totally misconceived. However, considering the wife's convenience that must be looked at, she being a nursing mother, residing at Kalaburagi it would be appropriate to transfer M.C. No.175/2013 pending before the Family Court at Vijayapura to Family Court at Kalaburagi. 7. At this juncture, it would be apposite to refer to the Judgment of the Apex Court in the case of 'SUMITA SINGH Vs. KUMAR SANJAY AND ANOTHER' reported in AIR 2002 SC 396 wherein the Apex Court has observed thus: '3. It is the husband's suit against the wife. It is the wife's convenience that, therefore must be looked at. The circumstances indicated above are sufficient to make the transfer petition absolute.' 8. In view of the dicta laid down by the Apex Court and considering the circumstances of the case, the petition is allowed. 9. The petition filed by the respondent under Section 9 of the Hindu Marriage Act, 1955 in MC No.175/2013 pending on the file of the Family Court at Vijayapura is transferred to the Family Court at Kalaburagi. The Family Court, Kalaburagi shall assign the number and adjudicate the matter after issuing notice to both the parties. Sd/- JUDGE AN/-