

ORDER BELOW EXH.50 PWDVA 34/2018

Prabhavati Vs. Raviprakash
CNR NO:MHLA120019572018

This application is moved by respondent for transferring the present case to the competent Court having jurisdiction to try and decide the case. It is contention of the respondent that, during the course of the evidence of the applicant she has admitted that, she resides at Latur. Further it is contended that, alleged act of Domestic Violence has not taken place within jurisdiction of this Court. Hence, this Court has no jurisdiction to entertain this case. Therefore, prayed to allow the application.

2] The applicant resisted this application by filing her say at Exh.51 on the ground that it is false and illegal. It is stated the applicant is presently residing at her parental place at village Halgara Tq. Nilanga Dist. Latur. It is further stated that, due to service of her father and for sake of her son's education they have shifted to Latur. But village Halgara is their native. Hence, this Court has jurisdiction to entertain this case. Therefore, prayed to reject the application.

3] Heard both Ld. Advocates for the respective parties. Ld. Advocate for the respondent vehemently argued that, this Court has no jurisdiction to entertain this case. Ld. Advocate relied upon cited case as under:

Sow. Pushpa Madhukar Ghatule & Anr. Vs. The State of Maharashtra & Ors., Cri.M.A.6784/2017, Bombay High Court, Bench at Aurangabad.

4] Per contra, Ld. Advocate for applicant argued that, as the applicant resides at village Halgara and it is also residence of her father. It is further argued that, only for sake of educational purpose

of her son the applicant is presently residing at Latur. Hence, this Court has jurisdiction to try and decide this case.

5] Perused the record. The question therefore is whether for domestic violence cause to the aggrieved person. Before advertng to the merits of the case it is necessary to refer here legal provision of D.V. Act. Hence, *Sec.27 of D.V. Act* is reproduced here-in-under:

Jurisdiction: (1) The court of Judicial Magistrate of the first class or the Metropolitan Magistrate, as the case may be, within the local limits of which-

- (a) the person aggrieved permanently or temporarily resides or carries on business or is employed: or
 - (b) the respondent resides or carries on business or is employed; or
 - (c) the cause of action has arisen,
- shall be the competent court to grant a protection order and other orders under this Act and to try offences under this Act.

6] It is to be noted that, sub sec.1 and Sec.27 of D.V. Act will have to be harmoniously construed. The D.V. Act is a social beneficial legislation. The object and intention of the legislature behind the enactment is writ large from the the statement of the object and reasons of the Act. On plain reading of Sec.27 of D.V. Act it appears that, in Sec.27(1)(a) it is specifically mentioned that jurisdiction to file application under this Act is where the aggrieved person permanently or temporarily resides or carries on business or is employed. In the instant case even if for sake of argument it is presumed that, the applicant is having permanent address or presently residing at Latur and her temporary address is village Halgara Tq. Nilanga as mentioned in the title clause. Then also this court has jurisdiction to try and decide the present case. As the provisions of Sec.27(1) (a) and (b) are applicable irrespective of

place of cause of action. It is to be noted that, clause (a) and (b) of Sec.27 (1) of DV Act has, therefore, no direct nexus or co-relation with the place where domestic violence is caused. In my view these two clauses of Sec.27 (1) (a) and (b) have to be harmoniously construed with sub sec.1 of Sec.27 of this Act. In view of aforesaid provision and reasons this court has jurisdiction to entertain the present case as the applicant is having her resident at Halgara Tq. Nilanga. With all respect to the ratio laid down in above cited case laws but as the facts and circumstances of the present case and that in the case law are different hence it is not applicable to the present case. Accordingly, I pass the following order:

ORDER

Application at Exh.50 is hereby rejected.

Date: 16/10/2024

(R. D. Kharate)
Judicial Magistrate, F.C., Nilanga