

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
CIVIL APPELLATE JURISDICTION.**

MISC. CIVIL APPLICATION NO. 127 OF 2015

Mrs. Varsha Satej Lokhande ... Applicant.

V/s.

Mr. Satej Prakash Lokhande ... Respondent

Mr. Shivaji Farkate for the applicant.

Mr. Ranjeet Patil for the respondent.

CORAM : K. K. TATED, J.

DATED : 21/08/2015.

P.C.:

. Heard learned Counsel for the parties.

2 This application is preferred by wife under Section 24 of C.P.C. for transfer of Marriage Petition bearing H.M.P No. 103 of 2014 filed by the respondent husband pending on the file of learned Civil Judge, Senior Division, Karad, Dist. Satara to the Family Court at Bandra, Mumbai.

3 The learned Counsel for the applicant submits that applicant got married to respondent no.1 on 04.12.2009 at Kashi Vishweshwara Temple, Sangam Mahuli, Dist. Satara as per Hindu vedic rites. He submits that the applicant is residing at Matunga, Mumbai and she is serving as a teacher in private school. He submits that because of harassment at the hand of respondent husband, the applicant is

residing in Mumbai since February, 2010. He submits that because of harassment, the applicant filed non cognizance complaint on 31.03.2014. He further submits that thereafter, again the applicant filed non cognizance complaint on 21.05.2014. He submits that the respondent husband filed divorce petition under Section 13(1)(ia) and 13(1)(ib) of Hindu Marriage Act, 1955 for divorce in the Court of Civil Judge, Senior Division, Karad on 09.06.2014. He submits that applicant being a teacher, it is very difficult for her to attend on each and every date at Karad. He submits that the distance between the Mumbai and Karad is more than 400 kms. He further submits that though the applicant has filed application for maintenance in Bandra Court at Mumbai, the respondent failed and neglected to remain present in that proceeding. He further submits that the applicant also filed application under Section 12,17,18,19,20,22 and 23 of the Protection of Womens from Domestic Violence Act, 2005 against the respondent, his father, mother, brother, brother in law etc. bearing case No. 28/DV/2014 in the Court of Metropolitan Magistrate at Bandra. He submits that both the cases filed by the applicant are pending for hearing and final disposal on its own merits. He submits that being a lady, it is very difficult for applicant to attend each and every date of hearing in Karad in Petition filed by the husband for divorce. He submits that in the interest of justice, this Hon'ble Court be pleased to transfer H.M.P. No. 103 of 2014 from Karad to the Family Court at Bandra, Mumbai for hearing on its own merits.

4 The learned Counsel for the applicant submits that if the present application is not allowed, applicant will suffer financially as well as

mentally. Hence, in the interest of justice, this Hon'ble Court be pleased to allow the present application filed by the wife under Section 24 of C.P.C.

5 On the other hand, the learned Counsel for the respondent husband vehemently opposed the present application. He submits that the applicant intentionally filed the present application for transfer of divorce petition from Karad to Mumbai to delay the proceeding. He submits that the respondent filed divorce petition at Karad on 09.06.2014 thereafter, the applicant wife filed her reply on 18.08.2014. He submits that the respondent husband filed their affidavit of evidence on 06.01.2015 and served on other side on 26.03.2015. He submits that the respondent's witnesses Shri. Nandkumar Balu Solvande also filed affidavit of evidence on 06.01.2015 and a served copy on other side. He submits that the matter is pending for cross examination on the part of the applicant wife. He submits that the applicant wife filed present Misc. Civil Application under Section 24 of C.P.C. on 27.04.2015. He submits that if the matter is transferred from Karad to Mumbai, then the respondent husband has to take all his witnesses to the Mumbai and that is very difficult for him. He further submits that they have no objection if this Hon'ble Court directs the Karad Court to decide the divorce petition as early as possible. He further submits that the respondent husband will not apply for unnecessary adjournment to prolong the litigation. On the basis of these submissions, the learned Counsel for the respondent husband submits that there is no substance in the present application and same to be dismissed.

6 I heard both the sides at length. Admittedly in the present proceeding, the trial is started in the divorce petition filed by the respondent husband. The applicant filed her reply on 18.10.2014. Thereafter, the respondent husband filed his affidavit of evidence and witness Nandkumar Solvande on 06.01.2015 and duly served on the applicant wife. Now matter is posted for cross examination.

7 Considering the fact that the applicant is working as a teacher, the trial in the divorce petition filed by the Respondent is started, I am of the opinion that if the matter is transferred from Karad to Mumbai in the Family Court at Bandra, the hearing of the same may delay. Hence, I do not find any substance in the present application. But, at the same time, in the interest of justice, I am of the opinion that the Civil Judge, Senior Division, Karad to be disposed of divorce Petition bearing H.M.P No. 123 of 2014 as early as possible, but in any case within nine months from the receipt of this order.

8 Hence, the following order is passed:

ORDER

a) Misc. Civil Application No. 127 of 2015 filed by the wife under Section 24 of C.P.C. for transfer of divorce petition bearing H.M.P No. 103 of 2014 from Karad to the Family Court at Bandra, Mumbai stands rejected.

b) Hearing of divorce Petition bearing H.M.P No. 123 of 2014 pending before the Civil Judge, Senior Division, Karad is expedited.

c) This Court expects that Civil Judge, Senior Division, Karad to dispose of H.M.P. No. 103 of 2014 as early as possible, but in any case within nine months from the receipt of copy of this order.

d) No order as to costs.

(K.K.TATED, J.)