

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION

MISC. CIVIL APPLICATION NO.199/2014

Puja Parashram Kokitkar

...Applicant

V/s.

Parashram Narayan Kokitkar

...Respondent

Mr. Anand S. Patil for the Applicant.

Ms. Chetana R. Rathod for the Respondent.

CORAM: K.K. TATED, J.

DATED : OCTOBER 13, 2015

PC. :

1. Heard the learned counsel for the parties. This Application is made by wife under section 24 of the Code of Civil Procedure, 1908 for transfer of divorce petition No.235/2014 filed by Respondent husband under section 13(1)(ia) of the Hindu Marriage Act 1955 in the Family Court at Pune to the court of Civil Judge, Senior Division, Gadhinglaj, Dist. Kolhapur for hearing on merits.

2. The learned counsel for the Applicant submits that in the present proceedings the Applicant issued private notice to the Respondent at his address as stated in divorce petition by RPAD. He submits that the said packet returned unserved with postal remark "said person is not residing at this address". To that effect, the Applicant has filed an Affidavit of service dated 17/12/2014. The learned counsel for the Applicant submits that, it is crystal clear from the Affidavit of service

that the Respondent husband is not residing at the address given in the divorce petition. He submits that the Respondent husband, with mala fide intention, filed divorce petition at Pune though he is residing at Mumbai as stated in the Application.

3. The learned counsel for the Applicant submits that at present the Applicant is residing at Konewadi, Tq. Chandgad and Dist. Kolhapur with her maternal aunt. He submits that the Applicant does not have any source of income. He submits that the Applicant has to depend on her maternal aunt only. He submits that the Applicant has a 4 years son. He submits that the distance between Pune to Konewadi, Tq. Chandgad, Dist. Kolhapur is more than 350 km. one way. He submits that one has to travel overnight to reach Pune from Konewadi, Dist. Kolhapur. He submits that it is very difficult for the Applicant to attend each and every date in the divorce petition at Pune along with her minor child. He submits that the Applicant also filed criminal Application bearing No.47/2014 u/s.125 of Cr.P.C. for maintenance in the court of Judicial Magistrate, First Class, Chandgad. The Respondent husband has been attending the said matter which is pending for hearing and final disposal on merits. He submits that if Application is not allowed, irreparable loss will be caused to the Applicant.

4. On the other hand, the learned counsel for the Respondent husband vehemently opposed the Misc. Civil Application. She submits that the transport facilities are available from Kolhapur to Pune by road as well as by rail. Hence, there is no question of transferring the matter

from Pune to Kolhapur. Therefore, there is no substance in the Misc. Civil Application. Same be dismissed with costs.

5. Heard both sides at length. In the present proceedings, the distance between Pune and Konewadi, Dist. Kolhapur is about 350 km. The Applicant has to look after her 4 years old child. The Applicant is dependent on her maternal aunt for financial assistance. Considering these facts, I am of the opinion that the Applicant has made out a case for allowing the Civil Application.

6. Hence, following order is passed:

- a. Office of Family Court at Pune is directed to transfer the divorce petition No.PA.235/2014 filed by the Parshram Narayan Kokitkar under section 13(1)(ia) of the Hindu Marriage Act, 1955 to the court of learned Civil Judge, Senior Division, Gadhinglaj, Dist. Kolhapur for hearing and final disposal on merits, as early as possible.
- b. Hearing of the divorce petition filed by the Respondent husband is expedited.
- c. Misc. Civil Application stands disposed off accordingly.

(K.K. TATED, J.)