

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
MISC. CIVIL APPLICATION NO. 208 OF 2015

Mrs. Priyanka Sanjay Khandare	.. Applicant
vs	
Sanjay Tukaram Khandare	.. Respondent

Mr. Prabhanjan B. Gujar for the appellant.
None for the respondent.

CORAM: R.D. DHANUKA, J.

DATE : 14TH DECEMBER 2015

P.C.:

1. Learned counsel for the applicant submits that the respondent has been served and an affidavit of service has been filed.

2. By this application, the applicant has prayed for transfer of Petition No. A 1479 of 2015 filed by the respondent at Family Court, Bandra to the Competent Civil Judge, Senior Division at Satara.

3. The applicant was married to the respondent on 28th December 2013 at Sion, Mumbai. In view of strained relations between the parties, the applicant left the matrimonial home and started living with her parents at Satara. The applicant filed

Criminal Misc. Application No. 170 of 2015 against the respondent before the Chief Judicial Magistrate, Satara under section 24 of the Code of Civil Procedure. On 29th May 2015, the respondent filed Petition No. A 1479 of 2015 for restitution of conjugal rights under section 9 of the Hindu Marriage Act before the Family Court at Bandra.

4. Learned counsel for the applicant states that the respondent has been served with the papers and proceedings filed by the applicant at Satara and he has also filed his reply to the proceedings before the learned Chief Judicial Magistrate at Satara.

5. It is submitted by the learned counsel for the applicant that the applicant is wholly dependent on her parents who are working as labourer and are earning on day to day basis. The applicant is unemployed. He submits that the distance between Satara and the Family Court at Bandra is about 300 kms. and the applicant is not able to travel alone.

6. No reply has been filed. The statements made in the Misc. Civil Application are accepted. Since the respondent has been attending the proceedings filed by the applicant at Satara, in my view, the applicant has made out the case for transfer of the proceedings filed by the respondent in the Family Court at Bandra for restitution of conjugal rights to the Civil Judge, Senior Division,

Satara, who has jurisdiction to entertain and try the petition filed by husband under the Hindu Marriage Act. The Supreme Court as well as this Court in catena of decisions have taken a view that while considering an application under section 24 of the Code of Civil Procedure, 1908 convenience of wife has to be considered. I, therefore, pass the following order:-

ORDER

- (i) The Misc. Civil Application is made absolute in terms of prayer clause (b).
- (ii) The Family Court at Bandra is directed to transfer the papers and proceedings of Petition No. A 1479 of 2015 filed by the respondent to the learned Civil Judge, Senior Division, Satara expeditiously.
- (iii) No order as to costs.

(R.D. DHANUKA, J.)