

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

MISC. CIVIL APPLICATION NO.76 OF 2015

Sneha Sagar Tamboli .. Applicant

vs.

Sagar Chandrashekar Tambole and Ors. .. Respondents

Mr.Milind R. Deshpande for the applicant

Mr.VS.Talkute for the respondent

CORAM : K.K.TATED, J.
DATED : 30/09/2015

PC:

1 Heard the learned counsel for the parties.

2 This application is preferred by wife under section 24 of the Code of Civil Procedure, 1908 for transfer of Hindu Marriage Petition No.356 of 2014 filed by respondent husband under section 13 of the Hindu Marriage Act in the court of Civil Judge, Senior Division, Satara to the Family Court, Solapur.

3 The learned counsel for the applicant submits that the distance between Solapur and Satara is about 220 kms. He further submits that the applicant is not earning anything. She has to depend for financial assistance on her parents. He submits that at present applicant is residing at Solapur with her parents. He further submits that there is

no one from her family, in Solapur to accompany her to attend the matter on each and every date in Satara. He submits that it is very difficult for the applicant to attend each and every date in Satara for want of financial assistance as well as moral support. He further submits that even the applicant filed a complaint under section 12, 17, 18, 19, 20, 21, 22 and 23 of the Protection of Womens from Domestic Violence Act at Solapur and same is pending for hearing and final disposal on its own merits. Hence, in the interest of Justice, this Hon'ble Court be pleased to transfer Divorce Petition filed by respondent husband at Satara to the Family Court at Solapur. He submits that if application is not allowed, irreparable loss and injury will be caused to the applicant.

4 On the other hand, the learned counsel for the respondent husband vehemently opposed the present application. He filed Affidavit-in-Reply dated 30.6.2015 to oppose the present application. He submits that applicant wife has already filed counter claim in the Divorce Petition filed by respondent husband for restitution of conjugal right. He submits that wife also filed application for seeking interim maintenance on 5.2.2015, in divorce petition.

5 Advocate for the respondent submits that the respondent also filed written statement to the counter claim filed by applicant wife on 30.4.2015. He submits that if matter is transferred from Satara to Solapur, hearing may be delayed. He further submits that applicant wife can travel from Solapur to Satara which is just about 220 kms. i.e. about 4 hours journey. He submits that the respondent husband have to look after his parents who are not keeping well. In the alternative,

advocate for respondent husband submits that if matter is transferred to Pandharpur Court, Dist.Solapur then they have no objection because the distance between Satara to Pandharpur is 3 hours journey whereas from Solapur to Pandharpur journey is of only 2 hours. He submits that if matter is transferred from Satara to Solapur, the respondent will suffer irreparable loss. Hence, in the interest of justice, this Hon'ble Court be pleased to dismiss the application preferred by wife for transfer of divorce petition from Satara to Solapur.

6 I have heard both the sides at length. In the present proceeding, applicant wife is a household wife. She does not have any source of income. At present, she is residing at Solapur along with her parents. She has to depend for financial assistance as well as moral support on her parents. Apart from that, the distance between Solapur to Satara is more than 220 kms.one way.

7 The Apex Court in the matter of **Rajani Kishor Pardeshi vs. Kishor Babulal Pardeshi (2005) 12 SCC 237** held that convenience of wife has to be preferred over that of the husband. Similar view is taken by the Apex Court in the matter of **Sumita Singh vs. Kumar Sanjay and Another 2001(10) SCC 41**.

8 Further the Apex Court in the mater of **Pratibha Khema Vs. Sanjay Kumar Khemka, 2005(2) LJ Soft SC 19** held that the convenience of a lady to be given priority at the time of deciding the Application for transfer of divorce petition from one place to another place. Similar view has been taken by our High Court in the matter of **Saw.Megha vs. Madan, 2013 (4) BCR 211**.

9 Considering the submissions made by the learned counsel for the Applicant wife, distance between Solapur to Satara and the law laid down by the Apex Court as well as our High Court, I am satisfied that the Applicant has made out a case for allowing the present Civil Application. Hence, following order:

a) Office of the Civil Judge, Senior Division, Satara is directed to transfer papers and proceedings of the Divorce Petition No.356 of 2014 filed by respondent husband under section 13 of the Hindu Marriage Act, to the Family Court at Solapur for hearing and final disposal on its own merits.

b) Misc.Civil application stands disposed off accordingly.

(K.K.TATED, J.)

CERTIFICATE

Certified to be true and correct copy of the original signed order.