

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
MISC CIVIL APPLICATION NO. 75 OF 2014**

Mrs. Manisha Pravin Shinde	Vs	Applicant
Mr. Pravin Devram Shinde		.. Respondent

Mr.Amey Deshpande, Advocate for Applicant.

CORAM : R.G.KETKAR,J.
DATE : 24/03/2015

PC:

1. Heard Mr. Amey Deshpande ,learned counsel for the applicant.
2. By this Application under section 24 of the Code of Civil Procedure, 1908 for transfer of H.M.P. No.8 of 2014 filed by the respondent - husband in the Court of Civil Judge Senior Division, Vasai, District Thane to the Court of Civil Judge, Sr. Dn., Nashik.
3. Mr. Deshpande submitted that by order dated 17.4.2014, notice for final disposal was issued to the respondent. He further submits that office remark dated 2.12.2014 shows that the respondent is served. He submitted that for the reasons stated in paragraphs 9 to 11, the proceedings instituted by the respondent deserve to be transferred from Thane Court to Nashik Court.
4. By order dated 17.4.2014, notice was issued to the respondent, returnable on 23.6.2014. Notice was to indicate that subject to time constraint and the convenience of the Court,

application will be decided finally at the stage of admission. Notice was to further indicate that despite service if the respondent fails to appear, the Court may consider deciding the application on its own merits.

5. As noted earlier, despite service the respondent has not entered appearance. No reply is filed opposing the application. In paragraph 9, the applicant has set out that she has instituted the proceedings before the learned Judicial Magistrate First Class, Nashik Road, bearing No.377 of 2013 against the respondent under the Protection of Women from Domestic Violence Act, 2005. The respondent has, thereafter, instituted proceedings, namely, H.M.P. No.8 of 2014 in the Court of Civil Judge, Sr.Dn, Thane, on or about 4.1.2014. In paragraph 11, the applicant has submitted that the distance between Sansarigaon to Vasai Court and vice-a-versa is almost 500 kms. She is unable to travel all alone. She has no relatives in Vasai. For the reasons stated in paragraphs 9 and 11, he submitted that the applicant has made out a case for transferring the proceedings from Thane Court to Nashik Court.

6. In support of these submissions, he also relied upon the following decisions:

- a) Anisha Sanjay Hinduja Vs Sanjay Shrichand Hinduja, 2003 (3) *Mh.L.J.*139;
- b) Sumita Singh Vs. Kumar Sanjay and Anr, *AIR 2002 SC 396*;

- c) Anita Balkrishna Barge Vs. Balkrishna Sopan Barge, 2011 (1) *Mh.L.J.* 518;
- d) Chaya Balaji Birajdar Vs. Balaji Ishwarrao Birajdar, 2011 (2) *Mh.L.J.* 44;
- e) Sunita Baliram Pande Vs. Baliram Haribhau Pande, 2012 (2) *Mh.L.J.* 143;
- f) Vijaya Sachin Anurkar (Gurav) Vs. Sachin Vasant Rao Anurkar (Gurav), 2012 (5) *Mh.L.J.* 721;
- g) Sonal Prafull Wani Vs. Prafull Sadashiv Wani, 2012 (5) *Mh.L.J.* 797; and
- h) Shreya Prashant Agale Vs. Prashant Prakash Agale, 2012(5) *Mh.L.J.* 943.

7. In view of the above, as also having regard to paragraphs 9 and 11 of the application which are not controverted by the respondent, I am satisfied that the applicant has made out a case for transferring the proceedings. Hence, Miscellaneous Civil Application is allowed in terms of prayer clause (a) with no order as to costs.

8. Proceedings of H.M.P. No.8 of 2014 pending in the Court of Civil Judge, Vasai, District Thane are transferred to the Court of Civil Judge, Senior Division, Nashik. Since the respondent has not appeared after transfer of the proceedings, the learned Civil Judge, Sr.Dn., Nashik will issue notice to the respondent and thereafter proceed with the matter in accordance with law.

9. All the parties including the learned Civil Judge, Sr.Dn., Vasai will act upon the authenticated copy of this order.

(R.G.KETKAR, J.)