

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

MISC. CIVIL APPLICATION NO.87/2014

Smt. parveen (Farheen) Shoeb Shaikh ...Applicant

V/s.

Shoaib Noorullah Shaikh ...Respondent

Mr. Sachin R. Pawar for the Applicant.

CORAM: K.K. TATED, J.
DATED : OCTOBER 8, 2015

PC. :

1. Heard the learned counsel for the Applicant. None for the Respondent though duly served.
2. This court, by order dated 30/04/2014 issued notice to the Respondent stating that if time permits, the matter would be decided finally at the stage of admission itself.
3. This Application is filed by wife under section 24 of the Code of Civil Procedure, 1908 for transfer of Regular Civil Suit No.453/2013 filed by the Respondent husband before the Civil Judge, Junior Division Nasik for restitution of conjugal rights on 20/07/2013.
4. The learned counsel for the Applicant submits that initially, the Applicant filed Matrimonial Application No.35/2013 before the Judicial

Magistrate, First Class, Thane under the Protection of Women from Domestic Violence Act, 2005 on 06/01/2013. He further submits that thereafter, the Respondent husband filed Regular Civil Suit No.453/2013 on 20/07/2013 for restitution of conjugal rights at Nasik. He submits that the Applicant has 3 years old son viz. Aslam. He submits that at present the Applicant is staying at Thane with her parents. He submits that the Applicant's father is suffering from cardiac problem. In support of that the Applicant has placed on record a Doctor's certificate. He submits that it is very difficult for the Applicant to travel from Thane to Nasik to attend each and every date in the suit filed by the Respondent, along with her minor child. He further submits that the Applicant has no source of income. She is dependent on her parents for financial assistance. He further submits that even the Respondent husband is staying at Kalyan. Hence, the suit filed by the Respondent husband at Nasik be transferred to the court at Thane. He submits that if the Misc. Civil Application is not allowed, irreparable loss will be caused to the Applicant. He submits that the Applicant has good chance of success in the matter.

5. Considering the submissions made by the learned counsel for the Applicant, the Applicant has 3 years old child, the Applicant's father is suffering from cardiac problem and the Applicant has no source of income, I am of the opinion that the Applicant has made out a case for allowing the Misc. Civil Application.

6. Hence, following order is passed:

- a. Misc. Civil Application is allowed.

b. Office of the Civil Judge, Junior Division Nasik is directed to transfer the Regular Civil Suit No.453/2013 filed by the Respondent Shoaib Noorullah Shaikh for restitution of conjugal rights to the Family Court at Thane for hearing and final disposal on merits.

c. Misc. Civil application stands disposed off accordingly.

(K.K. TATED, J.)

CERTIFICATE

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