

IN THE HIGH COURT OF JUDICATURE AT BOMBAY***CIVIL APPELLATE JURISDICTION*****MISC.CIVIL APPLICATION NO. 108 OF 2015****Sou. Karishma Manan Sheth****..... Applicant****VERSUS****Manan Mahesh Sheth****..... Respondent**

Mr.Dilip Bodake for the Applicant.

None for the Respondent.

CORAM : R.D. DHANUKA, J.**DATED : 17th NOVEMBER, 2015****P.C.**

By this petition filed under section 24 of the Code of Civil Procedure, 1908, the petitioner seeks transfer of the petition A No. 23 of 2015 from the Family Court, Kolhapur to the Civil Judge, Senior Division, Barshi, District Solapur and to decide in accordance with law. None appeared for the respondent though served. Some of the relevant facts for the purpose of deciding this petition are as under :-

2. The marriage of the applicant was performed with the respondent on 13th April, 2013 at Kolhapur as per Hindu Rites and Rituals. It is the case of the applicant that in view of the aggressive behaviour of the respondent, the applicant has been staying with her parents at Solapur. Her father is carrying on sale of kerosene business. The applicant has filed a Criminal Misc.Application No.125 of 2015 under section 125 of the Cr.P.C. against the respondent before J.M.F.C. Madha and has prayed for maintenance of Rs.10,000/- per month. The applicant has also filed the Criminal Misc.Application No.124 of 2015 before J.M.F.C. Madha under section 12 of the Domestic Violence Act, 2005 against the

respondent. Both these proceedings are pending before J.M.F.C., Madha.

3. Learned counsel appearing for the applicant states that the distance from Kurduwadi to Kolhapur is near about 300 k.m.from one side. There is no direct bus available from Kurduwadi to Kolhapur. He submits that sometimes in the year 2014, a Court of Civil Judge, Senior Division has started at Barshi and there is no huge pendency in that Court at present. It is submitted that the applicant has no accommodation at Kolhapur and if the applicant is directed to attend the proceedings filed by the respondent at Kolhapur, the expenses per day on the date of hearing would be much more than Rs.5,000/-. He submits that the applicant is unemployed and has no source of income. For the purpose of defending the litigation filed by the respondent, the applicant cannot take any financial assistance from her father.

4. No affidavit in reply is filed by the respondent. The averments made in the petition are deemed to have been admitted. The court has to see the convenience of the wife in prosecuting the proceedings filed by the respondent husband and to prosecute her proceedings which are at present pending before J.M.F.C.Madha. In my view the applicant has thus made out a case for transfer of the proceedings filed by the respondent which is pending before the Family Court Kolhapur. The Civil Judge Senior Division Barshi would have jurisdiction to dispose of the proceedings filed by the respondent before the Family Court under section 9 of the Hindu Marriage Act, 1955. I, therefore, pass the following order :-

(a) Misc. Civil Application No.108 of 2015 is made absolute in terms of prayer clause (b).

(b) Family Court Kolhapur is directed to transfer the papers and proceedings of petition A No. 23 of 2015 filed by the

respondent to the Civil Judge, Senior Division, Barshi, District Solapur to decide in accordance with law expeditiously. No order as to costs.

[R.D. DHANUKA, J.]