

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

MISC. CIVIL APPLICATION NO.138 OF 2014

Seema Shashikant Gatkal Applicant

Vs.

Shashikant Hanumant Gatkal Respondent

Mr. Ashok B. Tajane, Advocate for the Applicant.

Mr. Rajesh More, Advocate for the Respondent.

Coram : Smt. R.P. SondurBaldota, J.

Date : 11th March, 2015.

P.C.

1 This application filed under Section 24 Code of Civil Procedure is for transfer of Marriage Petition No.363 of 2014 for divorce filed by the respondent-husband from the Court of Civil Judge, Senior Division, Pune to the Court of Civil Judge, Senior Division, Barshi, District Solapur.

2 The applicant presently resides at Barshi and has filed Hindu Marriage Petition No.37 of 2012 for restitution of conjugal rights in the court at Barshi. The proceedings are at the final stage of arguments after completion of the evidence.

3 The grounds on which the applicant seeks transfer are i) the distance between Barshi and Pune, ii) possibility of conflicting orders if the two petitions are decided by different courts, iii) indifferent health of the parents and (iv) inability to travel.

4 The application is opposed by the respondent stating that the applicant is bold and independent minded and is accustomed to travel. She has taken her education by staying in hostels away from home. Even for her job, she was residing in a hostel. As regards the indifferent health of the parents, her brother who is a doctor and who stays with them can take their care. According to him, there are sufficient conveyances available for travel from Barshi to Pune. He next states on 13th January, 2013 when he had visited Barshi for attending to the court proceedings, he was assaulted and abused by the applicant, her father and her brother. His complaint to the police for offences under Sections 323, 504, 506 read with 34 Indian Penal Code has been recorded as N.C. No.50 of 2013. He apprehends repetition of the offences.

5 There is substance in the contention of the respondent that there can be no apprehension of conflicting orders in the two proceedings if heard separately. The nature and scope of the two proceedings is entirely different. As regards the inconvenience of

travel, I find no merit in it, since it is obvious from the pleadings that the applicant is an educated and independent lady, who is used to travel alone and stay alone. She has not disputed the incident of assault in her rejoinder. Therefore there is possibility of repetition of the incident if the proceedings of the respondent are transferred to Barshi. Hence, the application is dismissed.

(Smt. R.P. SondurBaldota, J.)