

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

MISCELLANEOUS CIVIL APPLICATION NO.192 OF 2014

SOU.BHARATI DHANAJI JADHAV)...APPLICANT

V/s.

DHANAJI MAHIPATI JADHAV)...RESPONDENT

Mr.S.A.Rajeshirke, Advocate for the Applicant.

Ms.Sujata Patil, Advocate for the Respondent.

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

Date : 8th January, 2015.

P.C. :

1 This application filed under Section 24 of Code of Civil Procedure (CPC) is by the wife for transfer of Hindu Marriage Petition No.58 of 2014 pending in the court of Civil Judge, Senior Division, Islampur, District Sangli, to the Family court at Bandra, where the applicant has filed Hindu Marriage Petition No.478 of 2014. The petition filed by the applicant is for divorce on the

ground of cruelty, whereas the petition filed by the respondent is for restitution of conjugal rights. The parties have a six year old son, who is staying with the applicant. The four grounds on which the application is based are that (i) it would be inconvenient for the applicant to take the long travel from Mumbai to Islampur on each date of the matter, (ii) the applicant has to look after the small child, (iii) the applicant, being employed as Police Sub-Inspector (P.S.I.), it would be inconvenient for her to take leave to attend to the proceedings at Islampur, and (iv) the application for divorce filed by the petitioner was first in point of time.

2 Ms.Sujata Patil, the learned advocate appearing for the respondent, points out that the time gap between the two petitions is only of three months. The applicant filed her petition for divorce on 8th February, 2014, whereas the respondent filed the application for restitution on 3rd May, 2014. This would mean that both the proceedings are still at nascent stage. The applicant is a government servant working as P.S.I. As such, her services are

transferable. She is only presently posted at Mumbai. In the event of her transfer, she is bound to undertake travel to attend to the court proceedings. The parents of the applicant reside at Kolhapur. The incidents of cruelty alleged in her petition for divorce had taken place at the matrimonial home at Village Kameri, Islampur, where the parties resided, and at Nashik, where complaint under Section 498A of Indian Penal Code is filed by the applicant. This would mean that the evidence available for deciding both the matters would be essentially at Kameri, and Nashik, but certainly not at Mumbai. The witnesses would necessarily be from Kameri, Kolhapur and Nashik. Thus, there is no merit in the application for transfer. The application is dismissed.

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