

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
MISC CIVIL APPLICATION NO. 1 OF 2015**

Sou. Jyoti Ganesh Barangule	Vs	Applicant
Shri Ganesh Vasant Barangule		.. Respondent

Mr. Anand S. Shalgaonkar, Advocate for Applicant.
Mr. Priyal Sarda, Advocate for Respondent.

CORAM : R.G.KETKAR,J.
DATE : 06/04/2015

PC:

1. Heard Mr. Anand Shalgaonkar, learned counsel for the applicant and Mr. Priyal Sarda, learned counsel for the respondent at length.

2. By this Application under section 24 of the Code of Civil Procedure, 1908, the applicant-wife has sought transfer of H. M. Petition No.210 of 2014 filed by the respondent-husband in the Court of Civil Judge, Senior Division, Barshi, Dist.Solapur, to Family Court, Pune. The said petition is instituted by the respondent-husband on 23.9.2014 under section 9 of the Hindu Marriage Act, 1955 (for short, "Act") for restitution of conjugal rights.

3. In support of this Application, Mr. Shalgaonkar submitted that the applicant is staying at Pune along with her parents. She has no relatives in Barshi or Solapur. The father of the applicant is an Autoriksha driver. The applicant is also maintaining two minor daughters. The elder daughter Tanvi is aged about 3 years

and younger daughter Arohi is 10 months old. The distance between Pune and Barshi is around 250 kms. The respondent is also not paying maintenance. She has also instituted proceedings for maintenance on 14.10.2014 under the provisions of the Protection of Women from Domestic Violence Act 2005 (for short, 'Domestic Violence Act'). He submitted that till date, no ad-interim order is passed in the proceedings instituted under the Domestic Violence Act.

4. On the other hand, Mr. Sarda submitted that the respondent has instituted proceedings under section 9 of the Act on 23.9.2014 and the applicant has instituted proceedings under the provisions of the Domestic Violence Act on 14.10.2014, i.e. to say, after filing of the proceedings by the husband. He, therefore, submitted that no case is made out for transfer of the proceedings.

5. I have considered the rival submissions made by the learned counsel appearing for the parties. I have also perused the material on record. For the reasons stated in paragraph 12 of the Application which are not controverted by the respondent, I find that the applicant has made out a case for transfer. Having regard to the fact that the distance between Barshi and Pune is about 250 kms as also having further due regard to the fact that the applicant has to maintain two minor children and that the respondent has not paid maintenance amount, it is imminently

desirable to transfer the proceedings from Barshi Court to Family Court, Pune. It is further necessary to request the learned Magistrate to decide interim application for maintenance filed by the applicant under the provisions of the Domestic Violence Act. Hence, Application is allowed in the following terms.

(i) Record and Proceedings of H.M. Petition No. 210 of 2014 pending before the Court of Civil Judge, Sr.Dn., Barshi is transferred to Family Court, Pune.

(ii) Learned Magistrate, who is seized of the proceedings under the Domestic Violence Act, is requested to decide the interim application for maintenance within three months from production of the authenticated copy of this order.

(iii) All the contentions of the parties on merits are expressly kept open.

(iv) All the parties including the learned Civil Judge, Sr.Dn, Barshi shall act on the authenticate copy of this order and transmit Record and Proceedings of H.M.Petition No.210 of 2014 forthwith to Family Court, Pune. Order accordingly.

(R.G.KETKAR, J.)