

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

10 MISC.CIVIL APPLICATION NO. 128 OF 2015

SOU. NAYANA W/O MUKESH HIRE
VERSUS
MUKESH S/O ANANDA HIRE(MISTARI)

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Advocate for Applicant : Mrs. Savita G. Mapari

CORAM : T. V. NALAWADE, J

DATE : 18th April, 2016

PER COURT :

1. The application is filed for transfer of HMP No. 316/2015 pending in the court of Civil Judge, Senior Division, Jalgaon.

2. Notice of the present application is duly served on the husband but he did not turn up. Heard learned counsel appearing for the applicant wife.

3. It is contended by the applicant wife that only to harass her, the proceeding under section 9 of the Hindu Marriage Act is filed by the husband in the Court of Civil Judge, Senior Division, Jalgaon when she is residing at Ulashanagar, Dist. Thane. It is her case that distance from Ulhasnagar to Jalgaon is around 450 kms. It is her case that she is house wife and she has no resource to spend on litigation and on attendance.

It is her case that at her instance one proceeding is filed under the Protection of Women from Domestic Violence Act and that proceeding is pending before the Judicial Magistrate, First Class, Ulhasnagar, her place of residence. It is her case that on the basis of report given by her, criminal proceeding is filed against the husband and others u/s 498-A and other sections of the Indian Penal Code. Same is pending before the Judicial Magistrate, First Class, Kalyan. It is her case that in any case the husband is required to come to the other Courts where the proceedings filed by her. In the application she had prayed for transfer of the Hindu Marriage Petition No.316/2015 pending in the court to Civil Judge, Senior Division Jalgaon to Kalyan, where there is a court of Civil Judge, Senior Division.

4. Convenience of both the sides needs to be seen. One matter is pending in the Court at Kalyan. Hindu Marriage Petition can be transferred so that at least no inconvenience will be caused in respect of one matter to the husband. The learned counsel for the applicant wife submitted that the Hindu Marriage petition may be transferred to the Court of Civil Judge, Senior Division, Kalyan. In view of this, the

application is allowed.

5. Hindu Marriage Petition No.316/2015 pending in the court to Civil Judge, Senior Division Jalgaon is withdrawn from that court and transferred to the court of Civil Judge, Senior Division, Kalyan.

6. Hearing of the present matter is not to be started if the husband does not turn up on the date fixed as the husband has not turned up in the present matter. Notice on Court motion is to be given to the husband to inform him about the date and transfer of matter and only after service of notice, hearing is to be started.

i. Parties to appear before the Civil Judge, Senior Division, Kalyan on 24.06.2016.

ii. Application is accordingly disposed of.

(T. V. NALAWADE, J.)

JPC