

IN THE HIGH COURT OF JUDICATURE AT BOMBAY***CIVIL APPELLATE JURISDICTION*****MISC.CIVIL APPLICATION NO. 49 OF 2016****Suvarna Shridhar Vadde****..... Applicant****VERSUS****Shridhar Namdeo Vadde****..... Respondent**

Mr.Ramdas Shelke for the Applicant.

None for the Respondent.

CORAM : R.D. DHANUKA, J.**DATE : 1st SEPTEMBER, 2016****P.C.**

Learned counsel appearing for the applicant states that the respondent has been served. None appeared for the respondent though served. No affidavit in reply is filed.

2. By this miscellaneous civil application, the applicant seeks transfer of the proceedings (Marriage Petition No.190 of 2015) filed by the respondent in the Court of the learned Civil Judge, Senior Division, Vasai to the Court of Civil Judge, Senior Division, Islampur. Some of the relevant facts for the purpose of deciding this application are as under :-

3. The applicant was married to the respondent on 5th May, 2011 at Chinchani, Taluka Tasgaon, District Sangli. The respondent is working as accountant with Sanjivani Hospital, Malad and has been earning salary of Rs.40,000/- per month. The applicant is graduate. It is the case of the applicant that after marriage, in view of the misbehaviour of the respondent and his family members with the

applicant, the applicant shifted to the house of her parents residing at Sangli and since then has been staying there. Out of the said wedlock, a baby boy is born. It is the case of the applicant that the applicant has been suffering from Hepatitis/B. The child is also suffering from major heart problem since the date of his birth and has been taking the regular treatment from the doctor at Sangli. The doctor has advised that the said problem can be solved by the regular treatment. The parents of the applicants are very poor and are working as labourers on daily wages. It is the case of the applicant that since the respondent is not parting with the original documents of the applicant, the applicant is not able to join any employment.

4. Learned counsel for the applicant invited my attention to the averments made in the application and also to the reply filed by the respondent in the Criminal Misc. Application No.203 of 2015 filed by the applicant against the respondent in the Court of learned Judicial Magistrate, First Class, Islampur under the provisions of Domestic Violence Act. He submits that the respondent has admitted about the ill health of the applicant and their child in the affidavit in reply. In support of this submission, learned counsel invited my attention to the several paragraphs of the affidavit in reply in those proceedings which are annexed as Ex.B to the application.

5. The respondent has not disputed that the applicant has been staying with her parents at Islampur since last three years. The respondent has been earning substantial amount. The applicant as well as the child are suffering from various disease. The parents of the applicant are poor and are working as labourers on daily wages. It is not possible for the applicant to attend the proceedings from Islamupur to Vasai Court. The distance between the Vasai and Sangli is 400 km. It is not in dispute that the respondent has been attending the proceedings filed by the

applicant under the Domestic Violence Act before the learned Judicial Magistrate, Islampur.

6. In view of the reasons recorded in the miscellaneous civil application, the applicant has made out a case for transfer of the proceedings filed by the respondent for divorce before the learned Civil Judge, Senior Division, Vasai to the Court of Civil Judge, Senior Division Islampur. For the reasons recorded in the miscellaneous civil application and as recorded aforesaid, following order is passed :-

- (a) Miscellaneous Civil Application No. 49 of 2016 is allowed in terms of prayer clause (a).
- (b) The learned Civil Judge, Senior Division Vasai is directed to transmit the papers and proceedings in Marriage Petition No.190 of 2015 to the Court of Civil Judge, Senior Division Islampur expeditiously.
- (c) Both the parties are directed to remain present before the learned Civil Judge, Senior Division, Islampur on 26th September, 2016.

7. The applicant is directed to convey this order to the respondent within two weeks from today. No order as to costs.

8. The parties as well as the Civil Judge, Senior Division, Islampur to act on the authenticated copy of this order.

[R.D. DHANUKA, J.]