

IN THE HIGH COURT OF JUDICATURE AT BOMBAY***CIVIL APPELLATE JURISDICTION*****MISC.CIVIL APPLICATION NO. 134 OF 2016****Vaishali Subhash Gurav****..... Applicant****VERSUS****Subhash Ganpat Gurav****..... Respondent**

Mr.Sanket Telang for the Applicant.

CORAM : R.D. DHANUKA, J.**DATE : 23rd DECEMBER, 2016****P.C.**

None appeared for the respondent though served when the matter was called out inspite of the opportunity granted by this court. No affidavit in reply is filed.

2. By this application filed under section 24 of the Code of Civil Procedure, 1908, the applicant seeks transfer of the Marriage Petition No.48 of 2016 filed before the learned Joint Civil Judge, Senior Division, Ratnagiri filed by the respondent to the Family Court at Bandra, Mumbai.

3. The applicant and the respondent were married on 19th May, 2014 at Ratnagiri. There is no issue out of the said wedlock.

4. Learned counsel appearing for the applicant states that in view of the continuous harassment and torture and ill treatment to the applicant by the respondent, the applicant has been staying separately with her parents since September 2014 at Bandra, Mumbai. The applicant has filed petition for maintenance under section 125 of the Criminal Procedure Code, 1973 against the

respondent before the Family Court, Bandra on 21st July, 2015 which proceedings are attended by the respondent.

5. The applicant is unemployed and has no source of income. The applicant is dependent upon her parents. The distance between Ratnagiri and Bandra is about 350 km. It is not convenient for the applicant to travel from Bandra to Ratnagiri. The applicant has recently developed a back pain problem due to which the applicant is facing difficulty while travelling.

6. Supreme Court as well as this court in catena of decisions has consistently taken a view that convenience of the wife has to be considered while considering an application under section 24 of the Code of Civil Procedure, 1908. For the reasons aforesaid, in my view, in view of the aforesaid facts, the applicant has made out a case for transfer of the proceedings filed by the respondent before learned Joint Civil Judge, Senior Division, Ratnagiri to the Family Court, Bandra, Mumbai.

7. I, therefore, pass the following order :-

(a) Misc.Civil Application No.134 of 2016 is made absolute in terms of prayer clauses (b) and (c).

(b) The learned Joint Civil Judge, Senior Division, Ratnagiri is directed to transmit the papers and proceedings of the Marriage Petition No.48 of 2016 to the Family Court, Bandra, Mumbai expeditiously.

(c) The parties as well as the two courts described in the

prayer clauses (b) and (c) to act on the authenticated copy of this order.

(d) The applicant is directed to convey this order to the respondent as well as to the learned Joint Civil Judge, Senior Division, Ratnagiri for compliance.

(e) Both the parties are directed to appear before the Family Court, Bandra, Mumbai on 30th January, 2017.

8. Misc. Civil Application No.134 of 2016 is disposed of in the aforesaid terms. No order as to costs.

(R.D.DHANUKA, J.)