

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

MISC. CIVIL APPLICATION NO.159 OF 2016

Mrs.Poonam Kiran Rajbhoj .. Applicant
Vs.
Kiran Popatrao Rajbhoj .. Respondent

Mr.Niranjan Shimpi for the Applicant.
Mr.Ravindra Sankpal for the Respondent.

CORAM : R.D. DHANUKA, J.
DATE : 6th December 2016

P.C.

. By this application filed under Section 24 of the Code of Civil Procedure, 1908, the applicant seeks transfer of Petition No.A-410 of 2016 filed by the respondent in the Court of Family Court at Bandra, Mumbai to the Family Court at Nashik.

2. The marriage of the applicant and the respondent was solemnized at Nashik on 30th May 2013. It is the case of the applicant that the respondent and her family members had harassed and abused the applicant from time to time on very trivial issues. It is the case of the applicant that the applicant was threatened to such an extent, that the applicant got no other option but to approach her parents at Nashik. The applicant has been staying with her mother and brother and her child who is two years old. It is submitted by the learned counsel for the applicant that the applicant is unemployed and totally depends on her mother and brother. Brother is employed and is unable to accompany the applicant to attend the Court proceedings. She cannot carry her two years old child to attend the Court proceedings from Nashik to Bandra, Mumbai.

3. The applicant has also filed the proceedings against the respondent and his family members under the provisions of the Domestic Violence Act, 2005.

4. Learned counsel appearing for the applicant submits that it is not convenient for the applicant to attend the Court proceedings at Bandra by accompanying the mother of the applicant and also the child who is two years old. It is submitted by the learned counsel that the respondent is employed in a big company in Mumbai and is earning sufficiently.

5. Learned counsel appearing for the respondent, on the other hand, submits that the applicant is employed and can earn income to maintain herself and the child. He submits that there is a good connectivity of train between the Nashik and Mumbai and thus, the applicant can attend the Court proceedings at Bandra and return back to Nashik on the same day. The respondent is a team leader appointed by an employer and has to report to the Director of the Company. If the Court proceedings are transferred from Mumbai to Nashik, it will be very inconvenient for the respondent to attend the Court proceedings at Nashik. He submits that father of the respondent is not keeping a good health and is depending on the family members.

6. It is not in dispute that the parties have a child out of the said wedlock who is two years old. It is also not in dispute that the applicant is unemployed and has been staying with her mother and brother. Brother is employed and is unable to accompany the applicant. Mother is not

keeping a good health. It is also not in dispute that the respondent is working in a big company and is earning sufficiently.

7. In so far as the submission of the learned counsel for the respondent that there is a good connectivity of train between the Nashik and Mumbai is concerned, there is no dispute about good connectivity. The question that arises is as to whether it is convenient for the applicant to carry her two years old child from Nashik to Bandra for attending the Court proceedings filed by the respondent.

8. In my view, it is not convenient for the applicant to accompany with her two years child. The respondent is earning sufficiently and can attend the proceedings at Nashik if the Court proceedings are transferred to Nashik. The distance between the Nashik and Mumbai is more than 160 kms. The applicant has filed proceedings against the respondent and his family members under the provisions of the Domestic Violence Act, 2005 at Nashik. I am thus not inclined to accept the submission of the learned counsel for the respondent that there would be any inconvenience to the respondent if the Court proceedings are transferred from the Court of Family Court at Bandra to the Family Court at Nashik.

9. Supreme Court as well as the High Court in the catena of decisions have persistently taken a view that the convenience of the wife has to be considered by the Court while considering application under Section 24 of the Code of Civil Procedure, 1908. In my view, the applicant has made out a case for transfer of Petition No. A-410 of 2016

filed by the respondent from the Court of Family Court at Bandra to the Family Court at Nashik.

10. I therefore pass the following order :-

- (i) Miscellaneous Civil Application is made absolute in terms of prayer clause (a);
- (ii) Family Court, Bandra, Mumbai is directed to transmit the papers and proceedings of the Petition No.A-410 of 2016 filed by the respondent to the Family Court at Nashik expeditiously;
- (iii) Both the parties are directed to appear before the Family Court at Nashik on 9th January 2017;
- (iv) Both the parties as well as the two Courts below described in the prayer clause (a) of the application to act on the authenticated copy of this order;
- (v) Hearing of the Petition No.A-410 of 2016 is expedited;
- (vi) Both the parties are directed to co-operate with each other and with the Family Court at Nashik to enable the Family Court, Nashik to dispose of the said petition expeditiously;
- (vii) There shall be no order as to costs.

R.D. DHANUKA, J.