

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

MISC. CIVIL APPLICATION NO.162 OF 2015

Reeta Dhananjay Jagtap	..	Applicant
Vs.		
Dhananjay Nanasaheb Jagtap	..	Respondent

Mr.Ravi Shinde for Applicant.
Mr.Rahul Gada for Respondent.

CORAM : R.D. DHANUKA, J.
DATE : 14th September 2016

P.C.

. By this miscellaneous civil application filed under Section 24 of the Code of Civil Procedure, 1908, the applicant seeks transfer of Hindu Marriage Petition No.A/64/2015 filed by the respondent-husband before the Family Court, Kolhapur to the Family Court, Pune.

2. The applicant and the respondent were married on 21st July 1997 at Kolhapur. Out of the said wedlock, on 12th November 1992, the applicant has begotten a girl. Till 2004, the applicant and the respondent were staying together at Kolhapur. Thereafter, from 2004 to 2013, the applicant and the respondent were staying at Malad, Mumbai. It is the case of the applicant that due to cruelty and physical harassment on the part of the respondent and his family members, the applicant decided to leave Mumbai and in the month of June 2013, she came to Pune along with her daughter. Her daughter was pursuing education in Pune. On 1st April 2015, the applicant has filed Misc. Application No.1258 of 2015 before the Judicial Magistrate, First Class, Pune under Sections 12, 18,

19, 20, 22 and 23 of the Domestic Violence Act, 2005 which is pending. The respondent has filed a reply in the said Misc. Application No.1258 of 2015 and has been attending the said proceedings at Pune. After filing the said misc. application at Pune by the applicant, the respondent has filed a petition for divorce bearing Hindu Marriage Petition No.A/64/2015 at Kolhapur though he has been staying at Mumbai.

3. Learned counsel appearing for the applicant invited my attention to the annexures to this application and submits that the applicant and her daughter are staying at Pune. The distance between Pune and Kolhapur is near about 250 kms. and it is inconvenient for the applicant to travel from Pune to Kolhapur. The applicant is working in a office. The applicant also apprehends that her life is in danger and is not in a position to attend the proceedings at Kolhapur.

4. Learned counsel appearing for the respondent submits that since the marriage was solemnized at Kolhapur, the petition for divorce was filed at Kolhapur. He submits that the respondent is unemployed and thus the proceedings shall not be transferred from Kolhapur to Pune.

5. It is not in dispute that the applicant along with the daughter of the applicant and the respondent has been staying at Pune since 2013. It is also not in dispute that the respondent has filed a reply in the miscellaneous application filed by the applicant at Pune under the provisions of Domestic Violence Act, 2005. The applicant is working at Pune. The child of the applicant and the respondent has been staying in Pune. The respondent is on the other hand claims to be unemployed.

6. In these circumstances, I am inclined to accept the request of the applicant for transfer of the Hindu Marriage Petition filed by the respondent before Family Court, Kolhapur to the Family Court, Pune. This Court while considering the application for transfer of the proceedings under Section 24 of the Code of Civil Procedure, 1908, has to also consider the convenience of the wife and children. For the reasons recorded aforesaid, the applicant has thus made out a case of transfer of the Hindu Marriage Petition No.A/64/2015 filed by the respondent before the Family Court, Kolhapur to the Family Court, Pune.

7. I therefore pass the following order :-

- (i) Miscellaneous civil application is made absolute in terms of prayer clause (b);
- (ii) The Family Court, Kolhapur is directed to transmit the papers and proceedings of the Hindu Marriage Petition bearing No.A/64/2015 to the Family Court, Pune expeditiously;
- (iii) Both the parties are directed to appear before the Family Court, Pune on 3rd October 2016;
- (iv) There shall be no order as to costs.

8. Parties as well as the Family Court, Kolhapur to act on the authenticated copy of this order.

R.D. DHANUKA, J.