

IN THE HIGH COURT OF JUDICATURE AT BOMBAY***CIVIL APPELLATE JURISDICTION*****MISC.CIVIL APPLICATION NO. 160 OF 2016****Rohini Sagar Shinde****..... Applicant****VERSUS****Sagar Bhilaji Shinde****..... Respondent**

Mr.Dheeraj Panchange, i/b. Mr.Hitesh Shah for the Applicant.

None for the Respondent.

CORAM : R.D. DHANUKA, J.**DATE : 20th DECEMBER, 2016****P.C.**

By this miscellaneous civil application filed under section 24 of the Code of Civil Procedure,1908 the applicant seeks transfer of the Hindu Marriage Petition No.403 of 2016 filed by the respondent in the court of learned Civil Judge, Senior Division at Pune to the Family Court at Nashik. The applicant has also filed affidavit of service which indicates that the respondent has not claimed service. No affidavit in reply is filed. None appeared for the respondent when the matter was called out.

2. The applicant married to the respondent on 1st June, 2010 at Dhule. It is the case of the applicant that the respondent deserted the applicant at her matrimonial home without informing anybody. On enquiry, the applicant came to know that the respondent joined the service at Jalgaon and has been residing there. It is the case of the applicant that due to mental and physical harassment, the applicant who was pregnant suffered miscarriage. The applicant has filed a complaint with the Police Commissioner, Nashik against the respondent for making threatening phone

calls and demanding money. The applicant has also filed a separate petition inter alia praying for restitution of conjugal rights and has also filed a complaint under the Protection of Women from Domestic Violence Act, 2005 against the respondent.

3. The applicant is not employed and is staying with her sister. It is not convenient for the applicant to attend the proceedings at Pune. She is totally dependent upon her sister.

4. It is the case of the applicant that the respondent on the other hand is earning Rs.50,000/- to Rs.55,000/- per month.

5. I have heard the learned counsel for the applicant and have perused the annexures to the miscellaneous civil application. The applicant is staying with her sister since last two years and is unemployed. Her sister is unable to accompany her to attend the proceedings at Family Court, Pune. The respondent has not disputed that he is earning Rs.50,000/- to Rs.55,000/-.

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. 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.

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

(a) Misc.Civil Application No.160 of 2016 is made absolute in terms of prayer clause (a).

(b) Learned Civil Judge, Senior Division at Pune is directed to transmit the papers and proceedings of the Hindu Marriage Petition No.403 of 2016 to the Family Court at Nashik expeditiously.

(c) The parties as well as the two courts described in the prayer clause (a) to act on the authenticated copy of this order.

(d) Both the parties are directed to appear before the Family Court at Nashik on 23rd January, 2017.

8. Misc. Civil Application No.160 of 2016 is disposed of in the aforesaid terms. No order as to costs.

(R.D.DHANUKA, J.)