

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

MISC. CIVIL APPLICATION NO.192 OF 2015

Meghna Pankaj Kulkarni .. Applicant
Vs.
Sagar Kishor Naik .. Respondent

Ms.Chaya Bhadkamkar for the applicant.
Mr.Abhijit Kandarkar for the respondent.

CORAM : R.D. DHANUKA, J.
DATE : 4th January 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 proceedings filed by the respondent husband before the Family Court, Pune to the Court of Civil Judge, Senior Division, Kalyan. Some of the relevant facts for the purpose of deciding this application are as under:-

2. The marriage of the applicant and the respondent was solemnized on 20th June 2014 at Pune. At the time of marriage, the applicant was widow and she has one female child from the first marriage. The female child was about eight years old. It is the case of the applicant that after co-habiting with the respondent for a short period, she was given mental tension and due to mental torture and harassment by the respondent and his family members, she was compelled to leave matrimonial home and shift to her parent's house situated at Kalyan, Thane. It is the case of the applicant that she is not employed. The mother of the applicant is also not employed. Father of the applicant is having

some small income of pension. It is the case of the applicant that the respondent is, however, working in Merchant Navy and is getting the salary of Rs.10 lacs per month. Learned counsel appearing for the applicant states that since the mother of the applicant is bed-ridden and her child is studying who is eight years old, she is unable to travel from Kalyan to Pune to attend the proceedings filed by the respondent.

3. Learned counsel for the applicant submits that in so far as the allegations made by the respondent in the affidavit-in-reply are concerned, the applicant seeks to proceed with the matter on the basis of denial. Statement is accepted.

4. Learned counsel for the respondent, on the other hand, submits that the mother of the respondent is not keeping good health and in support of his submission, he placed reliance on Doctor's Certificate annexed at Annexure I to the affidavit-in-reply. He submits that the respondent is not getting the salary of Rs.10 lacs per month as alleged by the applicant. He works as freelancer and whenever he is deployed he earns some amount of income.

5. In so far as the travelling of the applicant from Kalyan to Pune is concerned, the respondent is ready and willing to pay expenses on the travelling of the applicant from Kalyan to Pune. In rejoinder, learned counsel appearing for the applicant submits that the respondent has not even paid any amount of maintenance to the applicant so far.

6. There is no dispute that the applicant has eight years old daughter who has been staying with the applicant at the residence of her

parents. It is the case of the applicant that the mother of the applicant is not keeping good health and is bed-ridden and father has retired and has only income of pension. The applicant is unemployed. On the other hand, the respondent is admittedly working. The respondent has not even paid any amount of maintenance to the applicant so far. I am thus inclined to accept the submission of the applicant. In these circumstances, it would not be convenient to the applicant to attend the proceedings at Pune. The respondent can travel from Pune to Kalyan and pursue the said proceedings in Pune where the applicant is staying with her parents.

7. Be that as it may, the Supreme Court as well as this court in the catena of decisions has taken a consistent view that while considering the application under Section 24 of the Code of Civil Procedure, 1908, the Court has to consider the convenience of the wife in addition to the other related facts. In my view, the applicant has thus made out a case for transferring the proceedings filed by the respondent in the Family Court, Pune to the Court of Civil Judge, Senior Division, Kalyan at Thane.

8. I therefore pass the following order :-

- (a) Misc. Civil application is allowed in terms of prayer clause (1);
- (b) The Family Court, Pune is directed to transfer the petition for divorce bearing No.1441 of 2014 to the Court of Civil Judge, Senior Division, Kalyan at Thane for hearing and final disposal expeditiously;

- (c) Both the parties are directed to co-operate with each other and with the learned Civil Judge, Senior Division, Kalyan in expeditious disposal of the proceedings filed by the respondent;
- (d) Misc. civil application is disposed of in aforesaid terms;
- (e) There shall be no order as to costs.

R.D. DHANUKA, J.