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IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION

MISC. CIVIL APPLICATION NO.230 OF 2016

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|-------------------|---------------|
| Aarti S. Bhosle   | ...Applicant  |
| V/s.              |               |
| Sangram V. Bhosle | ...Respondent |

Mr.Rushikesh Barge for the Applicant.

Mr.Ravindra Sankpal for the Respondent.

**CORAM : R.D. DHANUKA, J.**  
**DATE : 29TH NOVEMBER, 2016.**

**P.C. :-**

1. By this application filed under section 24 of the Code of Civil Procedure, 1908, the applicant seeks transfer of Hindu Marriage Petition No.A-1276 of 2015 filed by the respondent before the learned Family Court, Bandra, Mumbai to the Court of the learned Civil Judge, Senior Division, Satara.

2. The applicant and the respondent were married on 12<sup>th</sup> February, 2006 at Kolhapur. A male child is born out of the said wedlock, which is about 9 years old now and is studying in a school at Satara. It is the case of the applicant that in view of the alleged mental harassment from the respondent and his family members, the applicant left the matrimonial house and is staying at Rahimatpur,

Taluka Koregaon, District Satara. The applicant has been staying with her only child at the said address.

3. Learned counsel appearing for the applicant submits that the distance between Rahimatpur to the Family Court, Bandra, Mumbai is more than 350 K.M. and it takes more than six hours to reach Family Court, Bandra, Mumbai from the place of residence of the applicant. He submits that the applicant is employed at a school at Satara on *ad-hoc* basis and is unable to travel along with 9 years old child to attend the proceedings at Family Court, Bandra, Mumbai. He submits that the father of the applicant has expired. The mother is not keeping good health and is staying separately.

4. It is submitted by the learned counsel that since the employment of the applicant is temporary, the applicant is not able to get any leave from her employer to attend the proceedings at Family Court, Bandra, Mumbai.

5. Learned counsel appearing for the respondent on the other hand submits that the applicant herself had attended the first meeting before the learned Councilor appointed by the Family Court, Bandra, Mumbai. He submits that the applicant will not take two hours to reach from the place of her residence to the Family Court, Bandra, Mumbai. He submits that the respondent is ready and willing to pay reasonable travelling expenses to the applicant as and when

she attends the proceedings at Family Court, Bandra, Mumbai. He submits that the respondent is working in Corporate office and thus he would not be able to attend the proceedings at Satara if the same is transferred. He submits that the mother of the applicant has assaulted the respondent and if the proceedings are transferred, the respondent apprehends that the mother of the applicant would once again assault the respondent.

6. Learned counsel for the applicant in rejoinder submits that the applicant is staying separately with her 9 years old son and is not staying with her mother as canvassed by the learned counsel for the respondent. He submits that it takes six hours from the place of residence to the Family Court, Bandra, Mumbai. He submits that he has no objection if the matter is referred to mediator at Satara after the proceedings filed by the respondent are transferred.

7. It is not in dispute that the applicant has been staying separately and has left the matrimonial home since February, 2015. The son of the parties is 9 years old and is schooling at Satara. The respondent does not dispute that the employment of the applicant is temporary. I am inclined to accept the submission of the learned counsel for the applicant that the employment of the applicant is on temporary basis and it would be difficult for her to get any leave from her employer to attend the proceedings from her place of residence

to the Family Court, Bandra, Mumbai.

8. I am not inclined to accept the submission of the learned counsel for the respondent that it would not take more than 2 hours from the place of residence of the applicant at Rahimatpur, Taluka Koregaon, District Satara to reach the Family Court, Bandra, Mumbai. The distance between the place of residence of the applicant and the Family Court, Bandra, Mumbai is more than 350 K.M.

9. Insofar as the submission of the learned counsel for the respondent that the respondent is ready and willing to pay reasonable travelling expenses to the applicant on each day of her visit to the Family Court, Bandra, Mumbai is concerned, in my view this offer of the respondent is not sufficient to refuse the application for transfer made by the applicant. If the applicant is required to attend the proceedings filed by the respondent at Family Court, Bandra, Mumbai on number of days, the applicant may have to leave her job. The applicant cannot carry her 9 years old son to attend the proceedings at Family Court, Bandra, Mumbai.

10. In my view, the applicant has thus made out a case for transfer of the proceedings filed by the respondent.

11. The Supreme Court as well as this Court in the catena of the decisions has held that convenience of the wife has to be considered by the Court while considering the application under

Section 24 of the Code of Civil Procedure, 1908.

12. I therefore, pass the following order :-

- a). Miscellaneous Civil Application No.230 of 2016 is made absolute in terms of prayer clause (A). The Family Court, Bandra, Mumbai is directed to transmit the papers and proceedings of Hindu Marriage Petition No.A-1276 of 2015 to the to the Court of learned Civil Judge, Senior Division, Satara expeditiously.
- b). The parties as well as two Courts described in prayer clause (A) to act on the authenticated copy of this order.
- c). Both the parties are directed to appear before the learned Civil Judge, Senior Division, Satara on 16<sup>th</sup> January, 2017 without fail. Hearing of Hindu Marriage Petition No.A-1276 of 2015 which is directed to be transferred is expedited.
- d). Both the parties are directed to co-operate with each other and also with the learned Civil Judge, Senior Division, Satara for disposing of the said proceedings expeditiously.
- e). No order as to costs.

**(R.D. DHANUKA, J.)**