

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

MISC. CIVIL APPLICATION NO.195 OF 2015

Rupali Dinesh Patil .. Applicant
Vs.
Dinesh Khushal Patil .. Respondent

Mr.Meet Sawant i/by Mr.Rajesh Patil for Applicant.
None for Respondent.

CORAM : R.D. DHANUKA, J.
DATE : 5th October 2016

P.C.

. None appears for the respondent though served. No affidavit in reply is filed.

2. By this misc.civil application filed under Section 24 of the Code of Civil Procedure, 1908, the applicant seeks transfer of Hindu Marriage Petition No.A-493 of 2014 filed by the respondent-husband before the Family Court, Nashik to the Family Court, Pune.

3. The applicant and the respondent were married on 15th December 2002 at Pune. Out of the said wedlock, two children are born viz. Shravarni, a daughter now aged 9 years and Arnav, a son aged 4 years.

4. It is the case of the applicant that the respondent physically attacked the applicant and caused serious injuries. Medical certificate in this regard is annexed to this application. It is the case of the applicant that the respondent had addressed the applicant in filthy language. The

applicant was thrown out of the matrimonial house at Nashik on 20th July 2014 and denied the custody of her two minor children. The respondent left for Iraq on 25th July 2014 leaving the custody of their children with parents of the applicant. It is the case of the applicant that daughter of the applicant and the respondent was beaten up several times by the respondent when she was staying with the respondent. On 17th October 2014, the applicant has filed a divorce proceeding on the ground of cruelty under Section 13(1)(i)(a) of the Hindu Marriage Act, 1955 in the Family Court at Pune being P.A. No.1176 of 2014.

5. Learned counsel appearing for the applicant states that the respondent has been attending the said proceeding from time to time. As a counter blast to the said proceeding filed by the applicant, the respondent has filed a petition under Section 9 of the Hindu Marriage Act, 1955 in the Family Court, Nashik bearing Petition No.A-493 of 2014. He submits that the applicant is not employed and has been staying with her mother, grand mother and younger brother along with her two minor children at Pune. Due to her unsound financial status and also the responsibility of the two minor children, the applicant is not able to attend the proceedings at Nashik. The distance between Pune and Nashik is about 250 kms. He submits that the financial condition of the respondent is very sound and he is having a monthly salary of Rs.4,50,000/-. The respondent owns a duplex house in Nashik and has also several other properties.

6. I have heard the learned counsel for the applicant and have perused the annexures to this application. I am perused the averments made by the applicant in the miscellaneous civil application and have

considered the submissions advanced by the learned counsel for the applicant across the bar. The applicant being unemployed and having two minor children and is on the mercy of her mother, grand mother and younger brother, cannot attend the proceedings at Nashik. This Court has to consider the convenience of the wife while considering the application for transfer under Section 24 of the Code of Civil Procedure, 1908. The applicant has made out a case for transfer of the proceedings. The respondent has already been attending the proceedings filed by the applicant in the Family Court, Pune.

7. I therefore pass the following order :-

- (i) Miscellaneous civil application is made absolute in terms of prayer clause (a);
- (ii) The Family Court, Nashik is directed to transmit the papers and proceedings of the Hindu Marriage Petition No.A-493 of 2014 to the Family Court, Pune expeditiously;
- (iii) Both the parties are directed to appear before the Family Court, Pune on 24th October 2016;
- (iv) There shall be no order as to costs.

8. The applicant is directed to convey this order to the respondent. Parties as well as the Family Court, Nashik to act on the authenticated copy of this order.

R.D. DHANUKA, J.