

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

MISC. CIVIL APPLICATION NO.201 OF 2015

Ashabi @ Anjum w/o.Fatusaheb Shaikh .. Applicant

Vs.

Fatusaheb s/o. Hasansaheb Shaikh .. Respondent

Mr.Y.K. Chaudhari for the applicant.

None for the respondent.

CORAM : R.D. DHANUKA, J.

DATE : 4th January 2016

P.C.

. A perusal of the office note indicates that the respondent has been duly served. None appears for the respondent though served. No affidavit-in-reply is filed.

2. By this miscellaneous civil application filed under Section 24 of the Code of Civil Procedure, 1908, the applicant seeks transfer of the Regular Civil Suit No.172 of 2015 filed by the respondent husband against the applicant before 6th Joint Civil Judge, Senior Division, Sangli to the Court of Civil Judge, Senior Division, Solapur for hearing and final disposal.

3. The applicant is the legally wedded wife of the respondent and their marriage was solemnized on 30th April 2004 at Sangli. The respondent is the employee of Co-operative Administrative Department and was serving at Solapur during the period between 2005 to 2013. Out of the said wedlock, the female child is born whose name is Jasmin. It is the case of the applicant that the respondent and his family members had dragged out the applicant from their house in the month of February

2015 permanently. The applicant has lodged a complaint with Mandrup Police Station against the respondent and his parents. The Mandrup Police have prosecuted the respondent and his family members for committing offence under Section 498-A of Indian Penal Code and other offences. The applicant has filed a Criminal Miscellaneous Civil Application No.605 of 2015 in the Court of Judicial Magistrate, First Class, Solapur for grant of maintenance under Section 125 of the Code of Criminal Procedure, 1973. The respondent thereafter filed a suit against the applicant in the Court of Civil Judge, Senior Division, Sangli inter alia praying for restitution of conjugal rights.

4. Learned counsel appearing for the applicant states that the applicant has been staying with the father in the village Auj (M), Tal.South Solapur, District Solapur. The applicant has no resources to attend the Civil Court, Sangli to defend her case. He submits that there is a distance of about 300 kms. from Solapur to Sangli. He submits that the respondent being a Co-operative Department employee has been earning sufficiently. He submits that the applicant is not employed. He submits that the applicant has been staying with her father who is also not employed and has retired.

5. There is no affidavit-in-reply filed by the respondent. Averments made in the Miscellaneous civil application are deemed to have been admitted. For the reasons recorded in the Miscellaneous Civil Application, I am of the view that the applicant has made out a case for transfer of the proceedings filed by the respondent in the Court of Civil Judge, Senior Division, Sangli to the Court of Civil Judge, Senior Division, Solapur.

6. I therefore pass the following order :-

- (a) Miscellaneous Civil application is allowed in terms of prayer clause (B);
- (b) The Court of Civil Judge, Senior Division, Sangli is directed to transfer the Regular Civil Suit No.172 of 2015 to the Court of Civil Judge, Senior Division, Solapur 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, Solapur in expeditious disposal of the proceedings filed by the respondent;
- (d) Miscellaneous civil application is disposed of in aforesaid terms;
- (e) There shall be no order as to costs.

R.D. DHANUKA, J.