

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

MISC. CIVIL APPLICATION NO.207 OF 2015

Sou.Pratibha Kishor Chavan .. Applicant
Vs.
Kishor alias Tejas Baburoa Chavan .. Respondent

Mr.Shirish Pitre for Applicant.
None for Respondent.

CORAM : R.D. DHANUKA, J.
DATE : 14th September 2016

P.C.

. Mr.Pitre, learned counsel appearing for the applicant states that the respondent has been 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-wife seeks transfer of Marriage Petition bearing No.191 of 2015 filed by the respondent-husband before the Court of 3rd Joint Civil Judge, Senior Division and Additional Chief Judicial Magistrate, Pune to the Court of Civil Judge, Senior Division, Mahad, District Raigad.

3. The applicant and the respondent were married on 9th June 2010 at Sindhkhed, District Dhule. On 11th May 2013, a girl was born out of the said wedlock who is in care and custody of the applicant. The applicant along with her daughter has been staying with her mother at Dapoli. The applicant is working at Dapoli. On 11th February 2015, the respondent-husband has filed a marriage petition for divorce under

Section 13(1) (1a) of the Hindu Marriage Act, 1955 in the Court of Civil Judge, Senior Division, Shivajinagar, Pune against the applicant.

4. Learned counsel appearing for the applicant invited my attention to the averments made in the miscellaneous civil application and annexures to the application and submits that the daughter of the applicant and the respondent is about 2 ½ years old and it is not possible for her to attend the proceedings filed by the respondent at Pune. He submits that there is distance of 200 kms. from the house of the applicant to the Court at Pune at which the proceeding was filed by the respondent. It will take six hours to reach from Dapoli to Pune. He submits that the proceedings can be transferred to the Court of Civil Judge, Senior Division, Mahad, District Raigad which is about 90 kms. away from the residence of the applicant. The applicant would be able to reach the Court of Civil Judge, Senior Division, Mahad, District Raigad within two hours from her house.

5. It is the case of the applicant that if the proceedings are not transferred from Pune to Mahad, the applicant would not be able to contest the proceedings filed by the respondent. No reply is filed by the respondent though served.

6. I have heard the learned counsel appearing for the applicant and have perused the record. Since the daughter of the applicant and the respondent is hardly 2 ½ years old and the applicant has been staying with her mother at Dapoli and is working at Dapoli, the applicant has made out a case for transfer of the Hindu Marriage Petition filed by the respondent in the Court of 3rd Joint Civil Judge, Senior Division and

Additional Chief Judicial Magistrate, Pune to the Court of Civil Judge, Senior Division, Mahad, District Raigad.

7. I therefore pass the following order :-

- (i) Miscellaneous civil application is made absolute in terms of prayer clause (b);
- (ii) The 3rd Joint Civil Judge, Senior Division and Additional Chief Judicial Magistrate, Pune is directed to transmit the papers and proceedings of the Hindu Marriage Petition bearing No.191 of 2015 to the Court of Civil Judge, Senior Division, Mahad, District Raigad expeditiously;
- (iii) Both the parties are directed to appear before the Civil Judge, Senior Division, Mahad, District Raigad on 10th October 2016;
- (iv) The applicant is directed to convey this order to the respondent within one week from today;
- (v) There shall be no order as to costs.

8. Parties as well as the 3rd Joint Civil Judge, Senior Division and Additional Chief Judicial Magistrate, Pune to act on the authenticated copy of this order.

R.D. DHANUKA, J.