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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

MISC. CIVIL APPLICATION (STAMP) NO.23829 OF 2015

Akshya V. Patil	...Applicant
V/s.	
Virendra D. Patil	...Respondent

Mr.Yuvraj Narvankar for the Applicant.

Mr.Vijay Killedar for the Respondent.

CORAM : R.D. DHANUKA, J.
DATE : 26TH FEBRUARY, 2016.

P.C. :-

1. By this Miscellaneous Civil Application, the applicant wife seeks transfer of Hindu Marriage Petition No.569 of 2013 filed by the respondent in the Court of the learned District Judge, Pune to the Family Court at Latur. The applicant was married to the respondent on 10th February, 2008 at Kolhapur in the year 2009. A male child is born out of the wedlock between the applicant and the respondent. It is the case of the applicant that the applicant along with her six years old son left the house of the respondent on 20th March, 2015 in view of the alleged misbehavior and physical assault on the part of the respondent upon the applicant. The applicant filed the proceedings

against the respondent in the Court of Chief Judicial Magistrate First Class under section 12 of the The Protection of Women from Domestic Violence Act, 2005 in the month of November, 2015.

2. It is the case of the applicant that the applicant is suffering from prolapse intervertebral disc of Lumbar region with radiculopathy and is unable to walk. She has been advised to avoid journey and is advised to take bed rest. Learned counsel appearing for the applicant furnished a copy of the doctor's certificate dated 26th October, 2015 in support of this submission for perusal of this Court.

3. It is submitted by learned counsel for the applicant that the applicant is unemployed and has to take care of six years old son. At present she is dependent upon her parents. There are serious allegations of physical assault against the respondent made by the applicant. The applicant apprehends that if she attends the proceedings at Pune, she may be assaulted physically further.

4. The matter was adjourned by this Court on 16th December, 2015 in view of the negotiations for settlement going on between the parties. Learned counsel appearing for both the parties have informed the Court that settlement is not possible.

5. Learned counsel for the respondent submits that though the proposal made by the respondent is very reasonable proposal, the applicant has deliberately not accepted the said proposal. This

Court cannot go into the reasons for rejection of the proposal made by the respondent.

6. The distance between Latur and Pune is about 435 K.M. Since the applicant is suffering from prolapse intervertebral disc of Lumbar region with radiculopathy disease which does not permit the applicant to travel and in view of the fact that the applicant is looking after six years old son and dependent upon her parents, in my view, the applicant has made out a case for transfer of the proceedings filed by the respondent at Pune.

7. I therefore, pass the following order :-

i). The learned District Judge, Pune is directed to transmit the papers and proceedings of Hindu Marriage Petition No.569 of 2015 to the Court of Civil Judge, Senior Division, Latur, who admittedly has jurisdiction to entertain the proceedings filed by the respondent expeditiously.

ii). Both the parties are directed to remain present before the learned Civil Judge, Senior Division, Latur on 21st March, 2016.

8. The Miscellaneous Civil Application is accordingly disposed of in aforesaid terms. No order as to costs.

9. It is made clear that the statement made by the learned counsel for the respondent that his client would not pursue the application for the custody of the child is not continued. The learned

Civil Judge, Senior Division, Latur, who has now jurisdiction in the matter shall consider the application on its own merits.

(R.D. DHANUKA, J.)