

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
MISC. CIVIL APPLICATION NO.228 OF 2015

Sou Vaishali Ashok Pathak

.. Applicant

-Versus-

Ashok Suresh Pathak

..Respondent

Mr. Rajendra Anbhule for applicant

Mr. Swapnil Mhatre i/b. S.S.Kulkarni for respondent.

CORAM : R.D.DHANUKA, J.
DATE : 18th October 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.281 of 2015 filed by the respondent, who is applicant before the Family Court, Pune to Family Court, Nashik. The applicant and respondent were married on 27th May 2001 at Nashik. After marriage the applicant was residing with respondent at her matrimonial house at Pune. It is the case of the applicant that due to domestic violence at the hands of respondent, the applicant had to leave the matrimonial home and to stay with her parents at Nashik. On 9th March 2015 the respondent has filed petition for divorce on the ground of cruelty under the provisions of Hindu Marriage Act, 1955 in the Family Court, Pune.

2] On 26th May 2015 the applicant filed the proceedings against the respondent under the provisions of Protection of Women from Domestic |

Violence Act, 2005 in the Court of JMFC, Nashik. It is the case of the applicant that the respondent has been attending the said proceedings filed by the applicant at Nashik.

3] Learned Counsel for the applicant states that the applicant is unemployed and has been residing with her parents and is fully dependent on them. The applicant has no means of earning. The distance between Nashik and Pune is about 200 kms. He, therefore, submits that it is very difficult for his client to travel from Nashik to Pune on each of the date to attend the divorce proceedings filed by the respondent – husband. He submits that the respondent is having own business and is earning handsome income.

4] Learned Counsel for the respondent on the other hand submits that it is not possible for the respondent to leave Pune or Nashik on all the dates of hearing. He submits that his client is ready and willing to pay the travel expenses to the applicant for her travel from Nashik to Pune.

5] There is no dispute that the applicant has also filed proceedings under the provisions of D.V. Act at Nashik. The said proceedings are going on at present. The applicant is unemployed and dependent totally upon her parents, who are senior citizens.

6] The applicant has no income of her own and she is dependent on her parents. Admittedly, the distance between Nashik and Pune is about 200 kms. On the other hand, respondent is carrying on his own business

and earning sufficiently.

7] In my view, in these circumstances, the applicant has made out a case of transfer of proceedings from Pune to Nashik. I, therefore, pass the following order:-

(a) MCA No.228 of 2015 is made absolute in terms of prayer clause (A);

(b) Family Court Pune is directed to transmit the papers and proceedings in Hindu Marriage Petition No.281 of 2015 to the Family Court, Nashik expeditiously;

(c) Both the parties are directed to appear before the family court, Nashik on 16th November 2016.

(d) The parties and Family Court, Nashik to act on authenticated copy of this order;

(e) No order as to costs.

(R.D.DHANUKA, J)