

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

MISC. CIVIL APPLICATION NO.237 OF 2014

Savita Nivrutti Chikane	..	Applicant
Vs.		
Nivrutti Parbhathi Chikane	..	Respondent

Mr.Yogesh Palve for the applicant.
None for respondent.

CORAM : R.D. DHANUKA, J.
DATE : 25th 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 the Marriage Petition No.227 of 2014 filed by the respondent-husband under Section 13(1) of the Hindu Marriage Act, 1955 before the 6th Joint Civil Judge, Senior Division at Pune to the Family Court at Bandra, Mumbai.

3. The applicant and the respondent were married on 23rd April 2008 at At/Post: Korle, Tal.Bhor, District Pune. Out of the said wedlock, one issue is born on 28th May 2009.

4. It is the case of the applicant that the respondent absolutely deserted the applicant and kept her in a very precarious condition at Korle, Tal. Bhor, District Pune. The applicant filed a complaint before the Metropolitan Magistrate, 60th Court at Kurla, Mumbai under the

Protection of Women from the Domestic Violence Act, 2005 against the respondent and his family members. Some time in the year 2014, the respondent filed a petition for divorce under Section 13(1) of the Hindu Marriage Act, 1955 before the 6th Joint Civil Judge, Senior Division at Pune against the applicant.

5. The distance between the Mumbai and Pune is more than 165 kms. Child of the parties is 5 years old and cannot travel along with the applicant to Pune. The applicant is staying at Mumbai. The applicant has no financial source of income and is not in a position to afford the travelling expenses from her residential place Mumbai to Pune. The applicant is also suffering from ill health. It is the case of the applicant that the respondent owned and possessed his house at Navi Mumbai and has been drawing a handsome salary of more than Rs.1,00,000/- per month and is presently residing at Singapore.

6. I have heard the learned counsel for the applicant and have perused the averments made in the application and annexures annexed to the miscellaneous civil application. No affidavit-in-reply is filed by the respondent.

7. Supreme Court and this Court in the catena of decisions has held that the convenience of the wife has to be considered by the Court while considering the application under Section 24 of the Code of Civil Procedure, 1908.

8. In my view, for the reasons recorded aforesaid, the applicant has made out a case for transfer of the Marriage Petition No.227 of 2014

filed by the respondent from the 6th Joint Civil Judge, Senior Division at Pune to the Family Court at Bandra, Mumbai as prayed.

9. I therefore pass the following order :-

- (a) Miscellaneous Civil Application No.237 of 2014 is made absolute in terms of prayer clause (a);
- (b) The 6th Joint Civil Judge, Senior Division at Pune is directed to transmit the record and proceedings of the Marriage Petition No.227 of 2014 filed by the respondent to the Family Court at Bandra, Mumbai expeditiously;
- (c) Parties are directed to appear before the Family Court at Bandra, Mumbai on 21st November 2016;
- (d) The applicant is directed to convey this order to the respondent for compliance;
- (d) There shall be no order as to costs.

10. Parties as well as the 6th Joint Civil Judge, Senior Division at Pune and the Family Court, Bandra to act on the authenticated copy of this order.

R.D. DHANUKA, J.