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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

MISC. CIVIL APPLICATION NO.243 OF 2015

WITH
CIVIL APPLICATION NO.216 OF 2015
IN
MISC. CIVIL APPLICATION NO.243 OF 2015

Ujjavala V. Hande	...Applicant
V/s.	
Vikas G. Hande & Anr.	...Respondents

Mr.P.C. Das i/b P.C. Das & Associates for the Applicant.

None for the Respondents.

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

P.C. :-

1. Learned counsel appearing for the applicant states that the the respondent no.1 has been served. None appears for the respondent no.1 when the matter was called out. No affidavit in reply has been filed.

2. By this application filed by the applicant under section 24 of the Code of Civil Procedure, 1908, the applicant seeks transfer of M. Petition No.395 of 2014 filed by the respondent in the Court of the learned Civil Judge, Senior Division, Khed, District Pune to the Court

of Civil Judge, Senior Division, Kalyan at Kalyan.

3. The applicant was married with the respondent on 15th April, 2012 at Pune. It is the case of the applicant that the applicant resided with the respondent for about one month at Koparkherne. When the applicant was pregnant, the respondent left her and started residing at his native place. A female child was born out of the wedlock between the applicant and the respondent on 8th April, 2013. It is the case of the applicant that the parents of the respondent started pressurizing the applicant either to leave the job or to take transfer and to reside with the respondent at Pune. The respondent never came to see the daughter of the applicant and the respondent.

4. On 29th September, 2014, the respondent filed Marriage Petition No.395 of 2014 *inter-alia* praying for divorce in the Court of Civil Judge, Senior Division, Khed, District Pune. On 4th July, 2015, the applicant filed a petition for divorce against the respondent in the Court of Civil Judge, Senior Division, Kalyan at Kalyan.

5. Learned counsel appearing for the applicant states that the applicant is not in a position to travel from her residence at Pune. The child of the applicant and the respondent is about three years old now and cannot travel to Pune along with the applicant. The applicant cannot leave the said child at home. The applicant is working at Thane and does not have sufficient income to maintain her and the

child and also to attend the proceedings at Pune. It is submitted that the issue in the proceedings filed by the respondent and the proceedings filed by the applicant seeking divorce against each other are common.

6. I have perused the averments made in the petition which are not controverted by the respondent. I am satisfied that the applicant has made out the case for transfer.

7. Hindu Marriage Petition No.395 of 2014 filed by the Respondent in the Court of Learned Civil Judge, Senior Division, Khed, District Pune deserves to be transferred to the Court of Learned Civil Judge, Senior Division, Kalyan at Kalyan. For the reasons recorded in the application, I am inclined to accept the prayer for transfer as prayed by the applicant.

8. I therefore, pass the following order :-

a). Miscellaneous Civil Application No.243 of 2015 is made absolute in terms of prayer clause (a). Learned Civil Judge, Senior Division, Khed, District Pune is directed to transmit the papers and proceedings in Hindu Marriage Petition No.395 of 2014 to the Court of the Learned Civil Judge, Senior Division, Kalyan at Kalyan expeditiously.

b). The parties as well as the Courts mentioned in prayer clause (a) of the Miscellaneous Civil Application to act on the

authenticated copy of this order.

c). The parties to this proceedings are directed to appear before the Learned Civil Judge, Senior Division, Kalyan, at Kalyan on 28th November, 2016.

d). No order as to costs.

(R.D. DHANUKA, J.)