

IN THE HIGH COURT OF JUDICATURE AT BOMBAY***CIVIL APPELLATE JURISDICTION*****MISC.CIVIL APPLICATION NO. 207 OF 2014****Smt.Gayatri Vinayak Patil****..... Applicant****VERSUS****Vinayak Hilal Patil****..... Respondent**

Mr.Anilkumar Patil for the Applicant.

Mr.Prashant Patil for the Respondent.

CORAM : R.D. DHANUKA, J.**DATE : 22nd NOVEMBER, 2016****P.C.**

By this miscellaneous civil application filed under section 24 of the Code of Civil Procedure,1908 the applicant seeks transfer of the Hindu Marriage Petition No.419 of 2014 filed by the respondent against the applicant inter alia praying for divorce from the Family court, Nashik to the Court of Civil Judge, Senior Division, Dhule.

2. The applicant and respondent were married on 28th June, 2012 at Dhule. It is the case of the applicant that since the applicant and his family members had ill-treated and harassed the applicant, the applicant left the matrimonial home and has been staying with her parents at Dhule since October 2013.

3. Learned counsel for the applicant submits that the applicant is suffering from various ailments and is not keeping good health. The mother of the applicant is uneducated and is senior citizen. The father of the applicant has undergone major treatment in respect of the angiography. It is submitted that the doctors have suggested the father of the applicant to take rest and shall not travel long distance. The applicant has one younger sister and a younger brother who are students and

are unable to attend the proceedings at Nashik with the applicant.

4. It is submitted by the learned counsel that the applicant is unemployed and has no source of income. The applicant has filed a separate proceedings under the Domestic Violence Act against the respondent at Dhule which is attended by the respondent. He submits that the distance between Dhule and Nashik is 150 km and it is not convenient for the applicant to attend the said proceedings.

5. Learned counsel for the respondent on the other hand submits that the father of the applicant had suffered heart ailment in the year 2010 and has undergone angioplasty in the year 2010. He submits that the respondent is working in the District Medical Hospital at Nashik and does not get leave usually. He submits that the distance between Nashik and Dhule is hardly about 150 km. He submits that respondent is ready and willing to bear the travelling expenses of the applicant.

6. The respondent has not disputed that the applicant has been staying with her parents since October 2013 and that she is unemployed. The father of the applicant has undergone angioplasty in the year 2010 and has been advised rest. The applicant is unemployed. The younger brother and the sister of the applicant are students. The mother of the applicant is also not keeping good health and is senior citizen. The applicant herself is also not keeping good health. Supreme Court as well as this court in catena of decisions has consistently taken a view that convenience of the wife has to be considered while considering an application under section 24 of the Code of Civil Procedure, 1908.

7. Insofar as submission of the learned counsel for the respondent that the father of the applicant had undergone angioplasty in the year 2010 and that could not be the ground for transfer of the proceedings from the Family court, Nashik to

the Court of Civil Judge, Senior Division, Dhule is concerned, in my view there is no substance in the submission of the learned counsel. Father of the applicant had been advised to take rest. The respondent is working in the District Medical Hospital at Nashik. It would be more convenient for the wife if the proceedings are transferred from the Family court, Nashik to the Court of Civil Judge, Senior Division, Dhule which are filed by the respondent. Admittedly the respondent is attending the proceedings filed by the applicant wife under the provisions of Domestic Violence Act. In my view, the applicant has made out a case for transfer of the proceedings filed by the respondent at Pune.

8. I, therefore, pass the following order :-

- (a) Misc.Civil Application No.207 of 2014 is made absolute in terms of prayer clause (a).
- (b) Family court, Nashik is directed to transmit the papers and proceedings of the Hindu Marriage Petition No.419 of 2014 to the Court of Civil Judge, Senior Division, Dhule expeditiously.
- (c) The parties as well as the two courts described in the prayer clause (a) to act on the authenticated copy of this order.
- (d) Both the parties are directed to appear before the court of the learned Civil Judge, Senior Division, Dhule on 13th December, 2016.

9. Misc. Civil Application No.207 of 2014 is disposed of in the aforesaid terms. No order as to costs.

(R.D.DHANUKA, J.)