

IN THE HIGH COURT OF JUDICATURE AT BOMBAY***CIVIL APPELLATE JURISDICTION*****MISC.CIVIL APPLICATION NO. 261 OF 2015****Mrs.Manisha Ravi Shrivasa****..... Applicant****VERSUS****Ravi Satyanarayan Shrivasa****..... Respondent**

Mr.Ranjit Patil, i/b. Mr.Kuldeep Patil for the Applicant.

None for the Respondent.

CORAM : R.D. DHANUKA, J.**DATE : 20th DECEMBER, 2016****P.C.**

By this miscellaneous civil application filed under section 24 of the Code of Civil Procedure,1908 the applicant seeks transfer of Hindu Marriage Petition No.A-1192 of 2014 filed by the respondent in the court of Family Court 2, Nagpur to the court of learned Civil Judge, Senior Division at Vasai, Thane. The applicant has already filed affidavit of service. None appeared for the respondent when the matter was called out. No affidavit in reply is filed.

2. The applicant was married to the respondent on 14th December, 2012 at Nagpur. Out of the said wedlock a male child is born on 8th September, 2013. It is the case of the applicant that in view of the misbehaviour of the respondent and his family members and in view of the physical assault on the part of the respondent upon the applicant, the applicant had to leave the matrimonial home and to shift to her parents' house at Nalasopara since 29th September, 2013.

3. Learned counsel appearing for the applicant states that the applicant has

already filed a petition and filed a complaint against the respondent under section 12 of the Protection of Women from Domestic Violence Act, 2005 in the Court of JMFC, Vasai, Thane.

4. It is submitted that the distance between Nagpur and Mumbai is about 835 km and the expenses for travelling on each date is about Rs.3,470/-. The applicant is unemployed and is not having any source of income. The parents of the applicant are not able to accompany the applicant for attending the proceedings at Nagpur. The applicant cannot carry her three years child to attend the proceedings at Nagpur. The respondent has not paid any maintenance to the applicant till date and thus it is not convenient to the applicant to attend the proceedings at Nagpur from Vasai also on that ground.

5. A perusal of the averments made by the applicant in the miscellaneous civil application and upon hearing the learned counsel appearing for the applicant, in my view the applicant has made out a case for transfer of the proceedings filed by the respondent. The applicant is unemployed and is not able to carry her two years child to Nagpur. The parents of the applicant are not keeping good health. No amount of maintenance is paid by the respondent to the applicant. Distance between Nagpur and Mumbai is about 835 km.

6. 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. In my view, in view of the aforesaid facts, the applicant has made out a case for transfer of the proceedings filed by the respondent.

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

- (a) Misc.Civil Application No.261 of 2015 is made absolute in terms of prayer clause (a).
- (b) Family court 2, Nagpur is directed to transmit the papers and proceedings of the Hindu Marriage Petition No.A-1192 of 2014 to the Court of Civil Judge, Senior Division at Vasai, Thane expeditiously.
- (c) The applicant is directed to convey this order to the respondent as well as to the Family Court 2, Nagpur for compliance.
- (d) The parties as well as the two courts described in the prayer clause (a) to act on the authenticated copy of this order.
- (e) Both the parties are directed to appear before the court of the learned Civil Judge, Senior Division at Vasai, Thane on 23rd January, 2017.

8. Misc. Civil Application No.261 of 2015 is disposed of in the aforesaid terms. No order as to costs.

(R.D.DHANUKA, J.)