

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

MISC. CIVIL APPLICATION NO.133 OF 2016

Vishranti Yogesh Nagotkar .. Applicant
Vs.
Yogesh Ramchandra Nogotkar .. Respondent

Ms.Savita Yadav i/by Mr.S.V. Gavand for the Applicant.
None for the Respondent.

CORAM : R.D. DHANUKA, J.
DATE : 6th December 2016

P.C.

. The matter was on board on 4th August 2016 when none appeared for the respondent. None appears for the respondent though served. No affidavit-in-reply is filed.

2. By this miscellaneous civil application filed under Section 24 of the Code of Civil Procedure, 1908, the applicant seeks transfer of Marriage Petition No.A 1673 of 2015 filed by the respondent-husband before the Family Court, Bandra, Mumbai to the Court of the learned Civil Judge, Senior Division, Alibaugh.

3. The marriage between the applicant and the respondent was solemnized on 24th March 2015 at Pen, District Raigad. It is the case of the applicant that the respondent started ill-treating her to bring savings of her service. A child was born out of the said wedlock who is 1 ½ years old now. The applicant has been staying at Pen, District Raigad along with her minor child. The applicant is employed in a school.

4. Learned counsel appearing for the applicant submits that it is not possible for the applicant to travel along with her 1 ½ years old child from Pen to Mumbai to attend the proceedings filed by the respondent at Mumbai which almost takes four hours. The applicant does not have any residence at Mumbai. She submits that for attending the Court proceedings, the applicant has to start journey one day early from the date of hearing.

5. I have heard the learned counsel appearing for the applicant and have perused the averments made in the misc. civil application. The applicant has been staying at Pen, District Raigad along with her 1 ½ years old child. The applicant is working as a teacher in a school and therefore, it is very inconvenient for the applicant to attend the Court proceedings at Bandra, Mumbai. The applicant is unable to carry her child to attend the Court proceedings. The applicant has also no other accommodation in Mumbai.

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

7. The applicant has thus made out a case for transfer of Marriage Petition No.A 1673 of 2015 filed by the respondent-husband before the Family Court, Bandra, Mumbai to the Court of the learned Civil Judge, Senior Division, Alibaugh.

8. I therefore pass the following order :-

- (i) Miscellaneous Civil Application is made absolute in terms of prayer clause (a);
- (ii) Family Court, Bandra, Mumbai is directed to transmit the papers and proceedings of the Marriage Petition No.A 1673 of 2015 to the Court of the learned Civil Judge, Senior Division, Alibaugh expeditiously;
- (iii) Both the parties are directed to appear before the Court of the learned Civil Judge, Senior Division, Alibaugh on 16th January 2017;
- (iv) Both the parties as well as the two Courts below described in the prayer clause (a) of the application to act on the authenticated copy of this order;
- (v) The applicant is directed to convey this order to the respondent within one week from today;
- (vi) There shall be no order as to costs.

R.D. DHANUKA, J.