

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

MISC. CIVIL APPLICATION NO.284 OF 2015

Jyoti Sanjay Khamitkar	..	Applicant
Vs.		
Sanjay Vilas Khamitkar	..	Respondent

Ms.Leena Tembkar for the applicant.
None for the respondent.

CORAM : R.D. DHANUKA, J.
DATE : 10th February 2016

P.C.

. Learned counsel appearing for the applicant states that the respondent has been served and has already filed an affidavit of service. None appears for the respondent though served. No affidavit-in-reply is filed.

2. By this miscellaneous civil application, the applicant seeks transfer of the proceedings of MP No.910 of 2015 filed by the respondent-husband before the Court of Civil Judge, Senior Division, Pune to the Family Court at Bandra, Mumbai.

3. The applicant and the respondent were married on 17th May 2012 at Mumbai. It is the case of the applicant that the applicant and the respondent cohabited as husband and wife at Pune in the rental premises from the date of marriage upto 15th August 2013. The respondent has been earning substantial amount and has not been paying any maintenance to the applicant and to the child who is three years old. It is the case of the applicant that the respondent and his parents picked up quarrels with the applicant in order to escape his matrimonial obligations and drove the applicant out of her matrimonial house on 15th

August 2013 with a three year old child and since then the applicant has been staying with her parents along with her child at Mumbai. It is the case of the applicant that father of the applicant is 71 years old and is suffering from Diabetes, High Blood Pressure and Hyper Tension and cannot accompany her on the date of hearing of the proceedings. The applicant is unemployed and has no source of income. Statements made in the application are accepted. The respondent has not filed any affidavit-in-reply and is absent. The applicant has thus made out a case for transfer of the the proceedings filed by the respondent-husband before the Court of Civil Judge, Senior Division, Pune to the Family Court at Bandra, Mumbai.

4. Supreme Court and 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.

5. I therefore pass the following order :-

- (i) Miscellaneous Civil Application No.284 of 2015 is made absolute in terms of prayer clause (a);
- (ii) Learned Civil Judge, Senior Division, Pune is directed to transmit the record and proceedings of MP No.910 of 2015 filed by the respondent to the Family Court at Bandra, Mumbai expeditiously;
- (iii) There shall be no order as to costs.

6. Parties as well as the learned Civil Judge, Senior Division, Pune to act on the authenticated copy of this order.

R.D. DHANUKA, J.