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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

MISC. CIVIL APPLICATION NO.8 OF 2016

Asha B. Gaikwad	...Applicant
V/s.	
Bhausahab M. Gaikwad	...Respondent

Mr.Hemant Kenjalkar for the Applicant.

None for the Respondent.

CORAM : R.D. DHANUKA, J.
DATE : 29TH NOVEMBER, 2016.

P.C. :-

1. Learned counsel appearing for the applicant states that the respondent has been served. The applicant has already filed affidavit of service before this Court.
2. By this application filed under section 24 of the Code of Civil Procedure, 1908, the applicant seeks transfer of Divorce Petition (H.M.P. No.66 of 2015) which was pending before the learned Civil Judge, Senior Division, Kopergaon to Family Court, Bandra, Mumbai.
3. The applicant was married to the respondent on 31st July, 1992. It is the case of the applicant that in view of cruelty meted out to the applicant and for various other reasons, the applicant had to leave the matrimonial home and has been staying with her parents at

Borivali, Mumbai. The respondent has filed divorce petition on 6th April, 2015 against the application before the learned Civil Judge, Senior Division, Kopargaon. It is the case of the applicant that since the respondent has committed an offence under the provisions of Protection of Women under Domestic Violence Act, 2005, the applicant has filed a complaint against the respondent before the 17th Court at Borivali, Mumbai on 4th August, 2015. The respondent has been attending the said proceedings.

4. Learned counsel for the applicant states that in view of various threats given by the respondent to the applicant, an FIR is registered against the respondent under sections 498(A), 406, 420, 323, 504 and 506(2) of the Indian Penal Code by Vanrai Police Station, Borivali on 13th April, 2015.

5. It is submitted by the learned counsel for the applicant that she is in service of Government of Maharashtra and is holding a responsible position of Higher Grade Stenographer, Marathi in its Food and Civil Supplies Department. He submits that the respondent has extra marital affair with one woman for last more than 12 years. He submits that in view of specialized job undertaken by the applicant, the applicant is not able to get leave from her employer for attending the proceedings at Kopargaon.

6. No affidavit in reply has been filed, though served. I have

heard the learned counsel for the applicant and perused the averments made in the miscellaneous civil application and have also perused the annexures to the application.

7. For the reasons recorded in the miscellaneous civil application, the applicant has made out a case for transfer of the proceedings filed by the respondent in the Court of the learned Civil Judge, Senior Division, Kopergaon to Family Court, Bandra, Mumbai. The Supreme Court as well as this Court in the catena of the decisions has held that convenience of the wife has to be considered by the Court while considering the application under Section 24 of the Code of Civil Procedure, 1908. In my view, the applicant having been threatened by the respondent of dire consequence and in view of the several complaints having been filed by the applicant against the respondent and also for various reasons recorded in the miscellaneous civil application, it would be appropriate to transfer the proceedings filed by the respondent at Mumbai.

8. I therefore, pass the following order :-

a). Miscellaneous Civil Application No.8 of 2016 is made absolute in terms of prayer clause (ii). Learned Civil Judge, Senior Division, Kopergaon is directed to transfer the papers and proceedings in Hindu Marriage Petition No.66 of 2015 to the Family Court, Bandra, Mumbai expeditiously.

- b). The parties as well as two Courts described in prayer clause (ii) to act on the authenticated copy of this order.
- c). Both the parties are directed to appear before the Family Court, Bandra, Mumbai on 9th January, 2017.
- d). The applicant is directed to convey this order to the respondent. No order as to costs.

(R.D. DHANUKA, J.)