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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ TR.P.(C.) 53/2016 & CM No.15381/2016 (stay)

BEENA

Through Ms.Dolly Sharma, Advocate
..... Petitioner
alongwith petitioner in person

versus

TILAK RAJ

Through Mr.Jagdish Kumar, Advocate
..... Respondent

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

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04.10.2016

1. By the present petition filed under Section 24 of the CPC, the petitioner seeks to transfer of the petition being HMA No.1032/2015, titled as 'Tilak Raj v. Beena', filed by the respondent under Section 9 of the Hindu Marriage Act, pending in the court of Ms.Bimla Kumari, Judge Family Court, Rohini Court, Delhi to the court of Ms.Poonam A.Bamba, Judge Family Court, South District, Saket, Delhi.

2. The learned counsel for the petitioner submits that the marriage of the petitioner was solemnized with the respondent on 30.11.2012. She also submits that after being ousted from her matrimonial home, she is staying with her brother at A-369, Tigri, J.J. Colony, New Delhi. She further submits that during marriage, the petitioner developed Tuberculosis and the respondent refused to look after her. It is stated that the respondent has left the petitioner to survive on her own and get herself treated at her own

expenses. It is stated that the respondent has filed aforesaid petition under Section 9 of the Hindu Marriage Act and summons were served on the petitioner.

3. The petitioner seeks transfer of the said petition to the South District Courts, Saket, Delhi as said place is closer to her residence and various matters are already pending in South District Courts, Saket, Delhi. List of such matters noted in the petition are as follows:

- i) “That on 08.01.2014, the petitioner filed complaint against the petitioner and his family in CAW Cell, Saket, Delhi. Thereafter an FIR No.652/2014 u/s.498A/406/34 IPC, PS Neb Sarai, District South Delhi was registered.
- ii) That on 07.05.2014, the petitioner filed complaint U/s. 12 DV Act in the Hon’ble Court of Chief Metropolitan Magistrate, Saket, New Delhi i.e. CC No.123/1/14 titled Beena vs. Tilak Raj & Ors. The same is now pending adjudication in the Court of Ms.BHAVNA KALIA, M.M.-01, (Mahila Court)/South District, Saket Court/New Delhi. The next date of hearing in the said matter is 14.07.2016.
- iii) That on 13.08.2014, the petitioner filed application u/s.125 Cr.PC i.e. CC No.198/14 titled Beena vs. Tilak Raj and the same is pending adjudication before Hon’ble Family Court of Ms.Poonam A.Bamba, Principal Judge, South, Saket, Delhi. The next date of hearing in the said matter is 05.07.2016.
- iv) That on 18.09.2015, the petitioner abovenamed filed one execution petition titled Beena vs. Tilak Raj and the same is pending adjudication before Hon’ble Family Court, South, Saket, Delhi. The next date of hearing in the said matter is 01.07.2016.”

4. The learned counsel for the petitioner submits that the petitioner is residing at her brother’s residence at the mercy of her relatives and she is not in employment and does not have any source of income. Though she has been cured of Tuberculosis but she has lost her health and has no energy.

She also has no sufficient means to travel long distances.

5. The learned counsel for the respondent has opposed the present petition. In the reply filed, it is stated that the respondent is also a patient of Tuberculosis probably a disease which he claims came through the petitioner. It is stated that the petitioner even prior to marriage was suffering from Tuberculosis but did not disclose the same. The respondent is also suffering apart from Tuberculosis, from high blood sugar (diabetes) and limb disability. The learned counsel has relied upon the judgment of the Supreme Court in the case of *Anindita Das v. Srijit Das, 2005 LawSuit (SC) 1148* to contend that the Supreme Court has taken note of the fact that the showing leniency to the ladies, the women are taking advantage of the same and the same is being misused.

6. The learned counsel for the petitioner has in rejoinder pointed out that the petitioner is also handicapped and is suffering from 50% permanent disability in regard to her spine. A copy of the certificate of Pt. Madan Mohan Malviya Hospital, Govt. of NCT of Delhi, Malviya Nagar, New Delhi- 110 017 has also been placed on record.

7. I have heard the learned counsel for the parties.

8. In my opinion, keeping in view the fact that various proceedings are pending in the South District Courts, Saket, Delhi and keeping in view the physical condition of the petitioner, it is appropriate that the petition filed by the respondent be transferred to appropriate court in South District Courts, Saket, Delhi.

9. Accordingly, the present petition is allowed. The petition filed by the respondent being HMA No.1032/2015, titled as 'Tilak Raj v. Beena', under Section 9 of the Hindu Marriage Act pending in the court of Ms.Bimla

Kumari, Judge Family Court, Rohini Court, Delhi is transferred to the court of Ms.Poonam A.Bamba, Judge Family Court, South District, Saket, Delhi.

JAYANT NATH, J.

OCTOBER 04, 2016/v