

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
MISC. CIVIL APPLICATION NO. 5 OF 2017

Vidya Amol Warkhade ... Applicant

Versus

Amol Shriram Warkhade ... Respondent

Ms. Krupali Rajani i/b. Mr. Jaideep Thakkar for the Applicant.

Mr. Vaibhav Ugle for the Respondent.

CORAM : S.J. KATHAWALLA, J.

DATED : 9TH AUGUST, 2017

P.C.:

1. The above Misc. Civil Application is filed under Section 24 of the Code of Civil Procedure, 1908 by the Applicant wife seeking transfer of Marriage Petition No. A-287 of 2014 filed by the Respondent husband from the Family Court, Nashik to the Court of Civil Judge, Senior Division, Thane.

2. According to the Applicant, the marriage between her and the Respondent was solemnized on 13th June, 2003. The couple was blessed with a daughter named 'Arya', who is at present nine years old and in the custody of the Applicant. The Applicant is residing at Navi Mumbai along with her daughter. The Applicant has filed a complaint under the Protection of Women from Domestic Violence Act, 2005 before the JMFC, CBD, Navi Mumbai, in which the Respondent has appeared and filed his say.

3. According to the Applicant, the Respondent is working as Sales Tax Inspector and travelling every day from Nashik to Mazgaon, Mumbai. The

Respondent is also aware that the daughter is schooling at Navi Mumbai. Despite that, the Respondent has filed the divorce proceedings at Nashik. The distance between the Navi Mumbai and Nashik is 173 kms (one way). Travelling a distance of approximately 350 kms (to and fro) from Navi Mumbai to Nashik on every adjourned date more particularly when the Respondent himself is coming to Mumbai everyday, would cause grave inconvenience and hardship to the Applicant. It is therefore submitted on behalf of the Applicant that the above Misc. Civil Application be allowed.

4. The Respondent has filed his Affidavit in Reply, wherein he has stated that the Applicant is educated and her submission that travelling from Navi Mumbai to Nashik will cause inconvenience and hardship to her is incorrect and should not be accepted. However, the Respondent has not disputed the fact that he is working as Sales Tax Inspector at Mazgaon, Mumbai and travels every day from Nashik to Mumbai. It is therefore clear that the Respondent has filed divorce proceedings at Nashik only to cause inconvenience and hardship to the Applicant. The fact that the minor daughter of parties, who is residing with the Applicant and schooling at Navi Mumbai is also not disputed. In the circumstances, I am satisfied that grave inconvenience and hardship will be caused to the Applicant if she is required to travel all the way from Navi Mumbai to Nashik to attend the proceedings before the Family Court, Nashik on the adjourned dates. I therefore pass the following order :

i. Marriage Petition No. A-287 of 2014 filed by the Respondent husband

before the Family Court, Nashik is transferred to the Court of Civil Judge, Senior Division, Thane.

ii. The learned Family Court, Nashik shall ensure that the papers and proceedings of the Marriage Petition No. A-287 of 2014 are received by the learned Civil Judge, Senior Division, Thane on or before 23rd October, 2017.

iii. The parties as well as the learned Principal Judge, Family Court, Nashik and the learned Civil Judge, Senior Division, Thane to act on an authenticated copy of this order.

iv. Parties and / or their Advocates shall appear before the Civil Judge, Senior Division, Thane on 30th October, 2017 at 11.00 a.m. and obtain appropriate orders / directions.

v. The Civil Judge, Senior Division, Thane shall endeavour to dispose off Marriage Petition No. A-287 of 2014 within a period of six months from 30th October, 2017.

vi. The Civil Judge Senior Division, Thane shall not grant any adjournment to the parties unless absolutely necessary. The parties too shall not seek any adjournment unless absolutely necessary.

vii. The above Application is allowed in the aforesaid terms, with no order as to costs.

(S.J.KATHAWALLA, J.)