

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

MISC. CIVIL APPLICATION NO. 44 OF 2017

Priya Prashant Bingi ... Applicant

Versus

Prashant Yellapa Bingi ... Respondent

Ms.Susan Abraham for the Applicant.

None for the Respondent.

CORAM : S.J. KATHAWALLA, J.

DATED : 7TH JULY, 2017

P.C.:

1. By the above Misc. Civil Application filed under Section 24 of the Code of Civil Procedure, 1908, the Applicant-wife seeks transfer of Petition No. A-206 of 2016 filed by the Respondent-husband and pending before the Family Court, Solapur to the Family Court, Pune.

2. The Applicant has stated that the marriage between her and the Respondent was solemnized on 13th February, 2005. A son named 'Om' was born to the Applicant and the Respondent on 26th June, 2006. In November-2006, the Applicant along with the minor son were forced by the Respondent and his family members to return to her parental home. Despite best efforts, the Respondent was not willing to accept the Applicant back to the matrimonial home for cohabitation. The Applicant therefore filed Petition No. A-9 of 2013 for restitution of conjugal rights. During the pendency

of that case, Applicant's mother had a major accident. Since the Applicant was the only person to take care of her mother, she could not attend to the proceedings at the Pune Court and therefore the same was dismissed for default vide order dated 28th March, 2014.

3. Thereafter, the Respondent filed Petition No. A-817 of 2014 for divorce before the Family Court at Pune, which was by a Judgment dated 13th June, 2016 dismissed with costs on the ground that the Respondent has failed to prove that the Applicant deserted the Respondent.

4. The Respondent thereafter filed Petition No. A-206 of 2016 before the Family Court, Solapur for restitution of conjugal rights.

5. The Applicant has submitted that since the Respondent has failed to provide any financial support to her and the minor son, the Applicant is working at Pune and earning a meager amount of Rs.3,000/- per month. For the expenses beyond Rs. 3,000/-, she is totally dependent on her brother. She has filed Petition No. 183 of 2016 in the JMFC Court, Pune seeking maintenance under Section 125 of the Code of Criminal Procedure, 1973. Being employed and taking care of her son, it is not possible for her to attend the proceedings before the Family Court at Solapur on the adjourned dates. Even otherwise, since she is not getting any financial support from the Respondent, it is not possible for her to bear the travel expenses as well as boarding and lodging expenses of herself, her son and a male escort, who is required to accompany her to the Court at Solapur. She has submitted that though the

Respondent had earlier filed the divorce Petition before the Family Court at Pune, which was dismissed with costs, he has filed a Petition for restitution of conjugal rights at Solapur only with the intention of causing harassment to her.

6. The Respondent is served and an Affidavit proving service is on record. He has not filed his Affidavit in Reply and has chosen not to appear before the Court. In the absence of any defence or contest by the Respondent, the averments contained in the Misc. Civil Application have remained uncontroverted. I therefore see no reason why the statements / submissions made by the Applicant in the above Misc. Civil Application should not be accepted. In the circumstances, I am satisfied that grave inconvenience and hardship will be caused to the Applicant, if the relief sought in the above Misc. Civil Application is not granted. I therefore pass the following order :

- i. The learned Principal Judge, Family Court, Solapur is directed to transmit the papers and proceedings of Petition No. A-206 of 2016 to the Principal Judge, Family Court, Pune.
- ii. The parties as well as the learned Principal Judge, Family Court, Solapur and the Principal Judge, Family Court, Pune to act on an authenticated copy of this order.
- iii. Parties and / or their Advocates shall appear before the Principal Judge, Family Court, Pune on 21st August, 2017 at 11.00 a.m. and obtain appropriate orders / directions.
- iv. The above Misc. Civil Application is allowed in the aforesaid terms, with no

order as to costs.

(S.J.KATHAWALLA, J.)