

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****MISCELLANEOUS CIVIL APPLICATION NO.75 OF 2016**

Laxwanti Ravindra Daundkar ...Applicant
vs.
Shri Ravindra Anna Daundkar ...Respondent
....
Ms. Susan Abraham, for the Applicant.
Mr. Kuldeep S. Patil, for the Respondent.
....

CORAM : S.C. GUPTE, J.

DATED : 22 MARCH 2017

P.C. :

. Heard learned Counsel for the parties.

2. This Miscellaneous Civil Application seeks transfer of a marriage petition filed by the Respondent husband for divorce before the Court of Civil Judge, Senior Division, Vasai to the Family Court at Pune. It is the case of the Applicant wife that she was driven out of the matrimonial house in less than a year of her marriage. Whilst she was at her parental home, she delivered a baby girl, who is now about 9 years old. It is her case that she was driven to file a criminal application under Section 12 of the Protection of Women from Domestic Violence Act, 2005 read with Section 498-A of the Indian Penal Code. This criminal application filed in the year 2010 has since been pending before the

Court of Judicial Magistrate, First Class at Pune. It is submitted that nearly two years after the filing of the criminal application and after an interim maintenance order was passed by the learned Magistrate, the Respondent filed the present petition for divorce. It is submitted that the Divorce Petition is filed merely to harass the Petitioner and to thwart the proceedings filed by her at Pune. It is submitted, firstly, that the Respondent is not paying maintenance to the Applicant and her minor daughter and has run up arrears of Rs.98,000/- for a period of 49 months at the time of filing of the Civil Application. Secondly, it is submitted across the bar that whilst the Applicant has attended a couple of dates in the marriage petition at Vasai, the Respondent has remained absent. It is submitted that the Applicant is living in Pune along with her parents and is financially dependent on them, with her minor daughter to look after, and also considering that her father has had paralytic attack and is unemployed and her mother being the only earning member in the family with a young unmarried daughter to look after, it is not possible for the Applicant to attend hearings of the marriage petition at Vasai.

3. There is no reply to the Miscellaneous Civil Application on the part of the Respondent. When queried across the bar, learned Counsel for the Respondent has no answer as to why maintenance is not paid all these days, save and except a submission that the Respondent does not currently have any job. No issue has been joined in this behalf by filing appropriate pleadings.

4. Learned Counsel for the Applicant has no objection to her

petition under the Domestic Violence Act being transferred to the Family Court at Pune so as to enable its trial along with the transferred Marriage Petition.

5. From these facts, this Court is of the view that it is in the interest of justice that the marriage petition, pending before the Court of Civil Judge, Senior Division at Vasai, be transferred to the Family Court at Pune.

6. Accordingly, the Miscellaneous Civil Application is allowed in terms of prayer clause (b). It is also ordered that Criminal Application No.2221 of 2010, pending before the Court of Judicial Magistrate, First Class, Pune shall also be transferred to the Family Court at Pune, to be heard along with transferred Marriage Petition No.283 of 2013.

(S.C. GUPTE, J.)