

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
MISC. CIVIL APPLICATION NO. 58 OF 2015

Mrs. Chhaya Manoj Bahire

... Applicant

Versus

Mr. Manoj Shankar Bahire

... Respondent

Mr. Nilesh Patil i/b. Mr. Rupesh Nalavade for the Applicant.
Mr. Dushant Pagare for the Respondent.

CORAM : S.J. KATHAWALLA, J.
DATED : 19TH JULY, 2017

P.C.:

1. The above Misc. Civil Application is filed by the Applicant wife seeking transfer of the Marriage Petition No. A-351 of 2014 filed by the Respondent husband before the Family Court, Aurangabad to the Civil Judge, Senior Division, Panvel, District – Raigarh.
2. On 5th May, 2015 this Court (Coram : R.G. Ketkar, J.) directed the office to issue notice to the Respondent, returnable on 23rd June, 2015 and also recorded that the above Application may be disposed off finally at the stage of Admission.
3. On 28th August, 2015 the Respondent was represented by his Advocate, who sought two weeks time to file the Affidavit in Reply and serve the same on the Advocate for the Applicant. On 18th July, 2017 when the matter was called out, none appeared for the Respondent. In view thereof, the following order was passed :

“The Advocate for the Applicant shall inform Advocate Mr. D.S. Pagar and / or Mr. H.V. Tambat that the above Miscellaneous Civil Application is placed for hearing and final disposal on 19th July, 2017, high on board.”

4. Today, the Advocate for the Respondent is present in Court. The Respondent has not filed his Affidavit in Reply in the last two years.
5. The marriage between the Applicant and the Respondent was solemnized on 14th June, 2012 at Aurangabad. Within a period of eight months from the date of marriage, the disputes arose between the parties and the Applicant started residing with her parents. In August-2014, the Respondent filed Hindu Marriage Petition No. A-351 of 2014 seeking dissolution of marriage between the Applicant and the Respondent.
6. According to the Applicant, her father is 61 years old, he is disabled and is therefore unable to work for his livelihood. The Applicant is employed in a private primary school, where she is not paid enough. The Respondent has not paid a single rupee to her during the period of separation. The mother of the Applicant is also not keeping well and requires frequent medical assistance. The distance from Panvel to Aurangabad is 600 kms (to and fro) and she will have to undertake an overnight journey. She has also submitted that she has no close relative in Aurangabad and hence she will have to arrange her stay in some hotel at Aurangabad. She has therefore submitted that grave inconvenience and hardship will be caused to her if she is required to travel from Panvel to Aurangabad on each date of hearing. She has

submitted that as against this the Respondent who is a young male can attend the proceedings at Panvel without any difficulty. She has submitted that the Respondent is financially well off and can afford to come to Panvel and attend the proceedings on the adjourned dates. She has therefore submitted that the above Application filed by her be allowed.

7. As stated earlier, the Respondent despite being given an opportunity to file his Affidavit in Reply to the above Application has in the last two years, failed to do so. It therefore appears that he is not interested in contesting the above Application. In view thereof, in the absence of any defence or contest by the Respondent, the averments contained in the Application have remained uncontroverted. I see no reason why the statements / submissions made by the Applicant in the above Application should not be accepted. In the circumstances, I am satisfied that the grave inconvenience and hardship will be caused to the Applicant, if the relief sought in the above Application is not granted. In the circumstances, I pass the following order :

- i. The learned Principal Judge, Family Court, Aurangabad is directed to transmit the papers and proceedings of the Marriage Petition No. A-351 of 2014 to the Civil Judge, Senior Division, Panvel, District – Raigad.
- ii. The parties as well as the learned Civil Judge, Senior Division, Panvel, District Raigad and the Principal Judge, Family Court, Aurangabad to act on an authenticated copy of this order.
- iii. Parties and / or their Advocates shall appear before the Civil Judge, Senior

Division, Panvel, District- Raigad on 21st August, 2017 at 11.00 a.m. and obtain appropriate orders / directions.

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

(S.J.KATHAWALLA,J.)