

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
MISC. CIVIL APPLICATION NO. 124 OF 2017

Mrs. Sarita Nitin Patil

... Applicant

Versus

Mr. Nitin Vasant Patil

... Respondent

Mr. Y.P. Narvankar for the Applicant.
None for the Respondent.

CORAM : S.J. KATHAWALLA, J.
DATED : 8TH AUGUST, 2017

P.C.:

1. By the above Misc. Civil Application filed under Section 24 of the Code of Civil Procedure, 1908, the Applicant wife is seeking transfer of Marriage Petition No. 1 of 2017 filed by the Respondent husband and pending before the Civil Judge, Senior Division, Vasai, Dist. Palghar to the Civil Judge, Senior Division, Gadhinglaj, Dist. Kolhapur.

2. The marriage between the Applicant and the Respondent was solemnized on 15th July, 2013 at Kavalikatti, Taluka – Gadhinglaj, Dist. Kolhapur. After marriage, a son named 'Arnav' was born to the parties, who is now two and half years old. Due to disputes between the parties, the Applicant started residing with her parents.

3. According to the Applicant, on 20th September, 2015, the Applicant once again went to reside with the Respondent at the matrimonial home. However, the

Respondent started assaulting her on the ground that he had doubts qua the legitimacy of the child 'Arnav'. The Applicant once again left the matrimonial home and registered a complaint with the Virar Police Station under Sections 323, 504 and 506 of the Indian Penal Code, 1860. The Applicant also filed the Petition seeking maintenance under the Protection of Women from the Domestic Violence Act, 2005 bearing No. 19 of 2016 before the Judicial Magistrate, First Class, Gadhinglaj, Dist. Kolhapur on 1st July, 2016. The Respondent thereafter filed Marriage Petition No. 1 of 2017 before the Civil Judge, Senior Division, Vasai, Dist. Palghar seeking dissolution of the marriage between the Applicant and the Respondent.

4. The Applicant has submitted that she has not taken any employment since she has to look after minor 'Arnav', who needs her constant care and attention. She therefore has no independent source of income and is depending on her parents for the day-to-day expense of herself and minor 'Arnav'. The Applicant has further submitted that the distance between Gadhinglaj and Vasai is approximately 400 Kms. Apart from the fact that grave inconvenience and hardship will be caused to her if she is required to travel a distance of 800 Kms (two and fro), which will require an overnight stay at Vasai, where she has no relative, the Applicant is unable to bare the travel expenses as well as expenses towards boarding and lodging of herself and one more person who will have to accompany her and minor 'Arnav' to Vasai on every date of hearing. It is therefore submitted by the Applicant that the above Misc. Civil Application be allowed and Marriage Petition No. 1 of 2017 filed by the Respondent

before the Civil Judge, Senior Division, Vasai, Dist. Palghar be transferred to the Civil Judge, Senior Division, Gadhinglaj, Dist. Kolhapur.

5. Despite service, the Respondent has failed to remain present by himself and / or through his Advocate. The Affidavit of Service dated 25th July, 2017 is on record. The Respondent has also not filed any Affidavit in Reply to the above Misc. Civil Application. In view thereof, what is stated by the Applicant in the above Application has remained uncontroverted. I see no reason why the statements / submissions made by the Applicant in the above Application should not be accepted. Grave inconvenience and hardship will be caused to the Applicant if she is required to travel a distance of 800 Kms. (to and fro) along with her minor son and one more person who will have to accompany the Applicant and 'Arnav' who is about 30 months old, on every date of hearing. Even otherwise, due to her weak financial condition, she is unable to bear the travel as well as boarding, lodging expenses of herself, and the person required to accompany her and minor 'Arnav' on every date of hearing. In the circumstances, I pass the following Order :

- i. Marriage Petition No. 1 of 2017 filed by the Respondent before the Civil Judge, Senior Division, Vasai, Dist. Palghar is transferred to the Civil Judge, Senior Division, Gadhinglaj, Dist. Kolhapur.
- ii. The learned Civil Judge, Senior Division, Vasai, Dist. Palghar is directed to ensure that the papers and proceedings of Marriage Petition No. 1 of 2017 reaches the Court of the Civil Judge, Senior Division, Gadhinglaj, Dist. Kolhapur on or before

29th September, 2017.

- iii. Parties and / or their Advocates shall appear before the Civil Judge, Senior Division, Gadhinglaj, Dist. Kolhapur on 3rd October, 2017 at 11.00 a.m. and obtain appropriate orders / directions.
- iv. The parties as well as the Civil Judge, Senior Division, Vasai, Dist. Palghar and the learned Civil Judge, Senior Division, Gadhinglaj, Dist. Kolhapur to act on an authenticated copy of this Order.
- v. The above Application is allowed in the aforesaid terms, with no order as to costs.

(S.J.KATHAWALLA, J.)