

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
MISC. CIVIL APPLICATION NO. 89 OF 2017

Sau. Rashmi Vikas Dhoble ... Applicant
Versus
Shri.Vikas Shantanu Dhobale ... Respondent

Mr.Manoj Badgujar for the Applicant.
Mr. Prashant Prabhu for the Respondent.

CORAM : S.J. KATHAWALLA, J.
DATED : 30TH JUNE, 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 the Hindu Marriage Petition No. 453 of 2016 filed by the Respondent-husband and pending before the Civil Judge, Senior Division, Thane to the Civil Judge, Senior Division, Shrirampur, District-Ahmednagar.
2. According to the Applicant, the marriage between her and the Respondent was solemnized on 13th March, 2011. Since disputes arose between the parties, on and from 20th January, 2016 the Applicant started residing at her parental home at Shrirampur, District-Ahmednagar.
3. On 21st July, 2016 the Respondent filed Hindu Marriage Petition No. 453 of 2016 seeking dissolution of marriage between the Applicant and the Respondent,

before the Civil Judge, Senior Division, Thane.

4. On 4th August, 2016 the Applicant filed an Application under Section 125 of the Code of Criminal Procedure, 1973 against the Respondent before the JMFC at Shrirampur seeking maintenance of Rs. 25,000/- per month, which Application is still pending.

5. The Applicant filed her Written Statement and an Application for maintenance as well as travel expenses on 17th November, 2016 in the Divorce Petition filed by the Respondent before the Civil Judge, Senior Division, Thane.

6. On 15th December, 2016 the Applicant wife filed an Application under Section 12 of the Protection of Women from Domestic Violence Act, 2005 against the Respondent husband and his parents before the JMFC at Shrirampur, which Application is pending. The Civil Judge, Senior Division, Thane by his order dated 23rd December, 2016 directed the Respondent to pay an amount of Rs. 5,000/- per month to the Applicant towards her maintenance but no order was passed with regard to payment towards travel expenses.

7. On 13th February, 2017 the Applicant filed the above Misc. Civil Application seeking transfer of Hindu Marriage Petition No. 453 of 2016 pending before the Civil Judge, Senior Division, Thane to the Civil Judge, Senior Division, Shrirampur, District - Ahmednagar.

8. On 15th February, 2017 issues were framed by the Civil Judge, Senior Division, Thane in the Hindu Marriage Petition No. 453 of 2016. On 18th April, 2017

the Respondent filed his Affidavit of Evidence in Hindu Marriage Petition No. 453 of 2016.

9. It is submitted by the Applicant that to attend the proceedings filed by the Respondent before the Civil Judge, Senior Division, Thane from her residence at Shrirampur, she has to undertake a journey of 540 kms (to and fro) which would involve an overnight journey. Her father is very old and suffering from various ailments and is unable to travel with her. Even otherwise, she has no source of income and is finding it very difficult to sustain herself from the amount of Rs.5,000/- paid to her towards maintenance by the Respondent, each month. It is not possible for her to incur the travel expenses as well as the boarding and lodging expenses of herself and / or an escort on every date of hearing before the Civil Court, Senior Division, Thane. As against this, the Respondent is attending and / or shall attend the proceedings filed by the Applicant under Section 125 of the Code of Criminal Procedure, 1973 before the JMFC, Shrirampur and the proceedings under Section 12 of the Protection of Women from Domestic Violence Act, 2005 at JMFC, Shrirampur. The Applicant has therefore submitted that the above Misc. Civil Application be allowed.

10. The Respondent has disputed the allegations made by the Applicant. He has submitted that issues are already framed in the divorce Petition filed by him before the Civil Judge, Senior Division, Thane and his Affidavit of Evidence along with documents have also been filed. The matter is keep for admissibility of documents

and since he is paying maintenance of Rs. 5,000/- per month without any default, it is the Applicant who should come from Shrirampur to Thane to attend the divorce proceedings.

11. From the above facts, it clear that the Applicant is required to travel a distance of 540 kms (to and fro) to attend the divorce proceedings filed by the Respondent at Thane. Her father is ailing and is unable to accompany her from Shrirampur to Thane and back. In view of the long distance between Shrirampur to Thane, she will have to undertake an overnight journey and in the absence of anyone to accompany her, the same will cause grave inconvenience and hardship to her. Even otherwise she cannot be expected to bear the travel expenses as well as boarding and lodging charges, which she may have to undertake on each date of hearing before the Civil Judge, Senior Division, Thane from the amount of Rs.5,000/- paid towards her maintenance by the Respondent. As against this, the Respondent will have to attend the proceedings filed by her under Section 125 of the Code of Criminal Procedure, 1973 and Section 12 of the Protection of Women from Domestic Violence Act, 2005. Therefore, transferring of the matter filed by the Respondent from the Court of Civil Judge, Senior Division, Thane to the Court of Civil Judge, Senior Division, Shrirampur, District-Ahmednagar will not cause inconvenience and hardship to the Respondent but not allowing the above Application will cause grave inconvenience and hardship to the Applicant. In the circumstances, I pass the following order :

i. The learned Civil Judge, Senior Division, Thane is directed to transmit the

papers and proceedings of the Hindu Marriage Petition No. 453 of 2016 to the Civil Judge, Senior Division, Shrirampur, District-Ahmednagar.

ii. The parties as well as the learned Civil Judge, Senior Division, Thane and the Civil Judge, Senior Division, Shrirampur, District-Ahmednagar to act on an authenticated copy of this order.

iii. Parties and / or their Advocates shall appear before the Civil Judge, Senior Division, Shrirampur, District-Ahmednagar 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.)