

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

MISC. CIVIL APPLICATION NO. 64 OF 2016

Mrs. Sonali Deepak Teli ... Applicant

Versus

Mr. Deepak Sukhalal Teli ... Respondent

Mr. Siddheshwar Kalel for the Applicant.

None for the Respondent.

CORAM : S.J. KATHAWALLA, J.

DATED : 1ST SEPTEMBER, 2017

P.C.:

1. The above Misc. Civil Application is filed by the Applicant wife seeking transfer of the Marriage Petition No. 261 of 2015 filed by the Respondent husband before the Civil Judge, Senior Division, Satara to the Civil Judge, Senior Division, Malshiras, Dist. Solapur.

2. The marriage between the parties was solemnized on 16th December, 2006. A son named Milind was born to the parties on 6th July, 2008. Since disputes arose between the parties, on and from April-2009 the Applicant and her minor son started residing with her parents at Malshiras, District Solapur. The Applicant has filed a Criminal Misc. Application No. 423 of 2011 under Section 24 of the Protection of Women from Domestic Violence Act, 2005 against the Respondent, which is pending before the JMFC, Malshiras, Dist. Solapur. The Applicant has also filed a Criminal Misc. Application No. 423 of 2011 seeking maintenance for herself and her minor son

Milind. Though the Respondent is required to pay an amount of Rs. 2,000/- to the Applicant towards monthly maintenance for herself and her minor son, the Respondent has not paid the maintenance amount regularly to the Applicant and an amount Rs.38,000/- was due and payable by him to the Applicant on the date of filing of the above Application.

3. It is submitted on behalf of the Applicant that she is required to look after her minor son and is unable to travel a distance of 100 kms one way from Malshirash, Dist. Solapur to Satara. She has also submitted that the Respondent is residing at Phaltan and has to travel only a distance of 40 kms to attend the Court proceedings at Malshirash, Dist. Solapur, however he has filed the matrimonial proceedings at Satara, for which he will have to travel the same distance i.e. 40 to 45 kms. The Applicant has submitted that even otherwise due to her weak financial condition, she is unable to travel a distance of 200 kms (to and fro) on every date of hearing before the Court at Satara. She has also submitted that grave inconvenience and hardship will be caused if she is required to travel from Malshiras, Dist. Solapur to Satara, whereas no inconvenience and hardship will be caused to the Respondent if the Marriage Petition No. 26 of 2015 is transferred to the Court of Civil Judge, Senior Division, Malshiras, Solapur.

4. The above Misc. Civil Application is served on the Respondent. Mr. Sudhir Deshpande, Advocate has filed his Vakalatnama on behalf of the Respondent. The matter was called out in the morning session, however none appeared for the

Respondent. In view thereof, the matter was kept back and message was sent to the Advocate for the Respondent to remain present. An Advocate from Mr. Deshpande's office enquired from the Shirestadar of this Court as to why the Advocate for the Respondent is asked to remain present when she was informed that the matter was kept back for hearing. However, when the matter is called out, again none appear for the Respondent.

5. The Respondent has filed his Affidavit in Reply wherein he has denied the submissions and allegations made by the Applicant. He has denied that he has to pay arrears of maintenance to the Applicant. He has also alleged that the Applicant is doing tailoring jobs and earns approximately Rs.10,000/- per month. However, he has not produced any evidence in support of the same. Though the Respondent has filed his Affidavit in Reply, a copy of the same is not served on the Advocate for the Applicant. In view of the submissions made by the Applicant which are recorded hereinabove, I am satisfied that 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. Marriage Petition No. 261 of 2015 filed by the Respondent husband before the Civil Judge, Senior Division, Satara is transferred to the Civil Judge, Senior Division, Malshiras, Dist. Solapur.
- ii. The learned Civil Judge, Senior Division, Satara shall transmit the papers and proceedings of the Marriage Petition No. 261 of 2015 to the Civil Judge, Senior

Division, Malshiras, Dist. Solapur on or before 20th September, 2017.

iii. The parties as well as the learned Civil Judge, Senior Division, Satara and the Civil Judge, Senior Division, Malshiras, Dist. Solapur to act on an authenticated copy of this order.

iv. Parties and / or their Advocates shall appear before the Civil Judge, Senior Division, Malshiras, Dist. Solapur on 22nd September, 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.)