IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

MISC. CIVIL APPLICATION NO. 108 OF 2017

Shanta Balasaheb Pagire ... Applicant

versus

Balasaheb Digambar Pagire ... Respondent

Mr. Priyal Sarda, for Applicant.
None for Respondent.

CORAM : S.J. KATHAWALLA, J.
DATED : 15TH SEPTEMBER , 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 divorce petition being M.P. No. A-362/2014 filed by the Respondent-husband and pending before the Family Court, Pune.

2. The marriage between the Applicant and the Respondent was solemnized on 25th January, 1987 at Shrirampur and in 1990 the couple was blessed with a girl child named Neelam. Since disputes arose between the parties, since the year 1993 the applicant started residing with her parents.

3. On 19th September, 2007, the Applicant wife filed an application bearing HMP No. 89/2007 before the Civil Judge, Senior Division, at Shrirampur, seeking restitution of conjugal rights under section 9 of the Hindu Marriage Act, 1955 alongwith maintenance. On 5th December, 2008 the Restitution Petition was allowed

with costs and a sum of Rs. 2,500/- was granted to the Applicant towards her monthly maintenance. Thereafter, the Respondent preferred an Appeal on 8th January, 2010 at Shrirampur District Court, Shrirampur bearing Regular Civil Application No. 2/2010. Thus, the present Respondent filed a divorce petition being M.P. No. A-362/2014 before the family court at Pune seeking dissolution of marriage between him and the applicant.

4. The Applicant has submitted that she is 47 years old is not educated. Since her daughter is now married and resides with her husband, the Applicant now resides alone. The distance between Pune to Shrirampur is about 500 kms (to and fro). There is no video conferencing facility at Shrirampur. In any event, being uneducated she will not be able to defend the petition through video conferencing. Being all alone, it will also not be possible for her to travel the distance of 500kms i.e. from Shrirampur to Pune on every adjourned date of hearing before the Family Court, at Pune. Again her financial condition is also weak and it will be difficult for her to bear the travel expenses. According to the Applicant, the Respondent husband is a fit man and can undertake the journey of 500kms without requiring any person to accompany him.

5. Despite service, the Respondent has not remained present. In view thereof, what is stated by the Applicant in her application has remained uncontroverted. There is no reason why this court should not accept the submissions made by the Applicant in her application. In the circumstances, I am satisfied that grave inconvenience and hardship will be caused to the applicant if the relief sought by her in the above

Application is not allowed. I therefore pass the following Order :

i. The Marriage Petition being No. A-362/2014 filed by the Respondent husband is directed to be transferred from the Family Court, Pune to the Civil Judge, Senior Division, at Shrirampur.

ii. The Family Court at Pune shall ensure that the papers and proceedings of Marriage Petition being No. A-362/2014 reaches the Court of the Civil Judge, Senior Division, at Shrirampur on or before 28th September, 2017.

iii. The parties and/or their advocates shall appear before the Civil Judge, Senior Division, at Shrirampur on 29th September, 2017 and obtain appropriate directions.

iv. The Civil Judge, Senior Division, Shrirampur shall endeavour to dispose off Hindu Marriage Petition No.A-362 of 2014 within a period of six months from 29th September, 2017.

v. The Civil Judge, Senior Division, Shrirampur shall not grant adjournment/s to the parties unless absolutely necessary. The parties too shall not seek adjournment/s unless absolutely necessary.

vi. The parties as well as the Family Court at Pune and the Civil Judge, Senior Division, at Shrirampur to act on an authenticated copy of their order.

vii. The Advocate for the Applicant shall forthwith serve a copy of this order on the Respondent and also on the Advocate of the Respondent who is representing the Respondent before the Family Court at Pune by Speed pot/ Registered Post A.D. and/or by hand- delivery.

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

(S.J.KATHAWALLA, J.)