

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
MISCELLANEOUS CIVIL APPLICATION (ST) NO. 6403 OF 2017

Mrs. Pooja Sandeep Pawar	...	Applicant
Versus		
Mr. Sandeep Adinath Pawar	...	Respondent

Mr. Siddharth C. Wakankar for the Applicant.
Respondent in person present in Court.

CORAM : S.J. KATHAWALLA, J.
DATED : 31ST JULY, 2017

P.C.:

1. By the above Miscellaneous Civil Application filed under Section 24 of the Code of Civil Procedure, 1908, the Applicant-wife seeks transfer of Marriage Petition No.1812 of 2016 filed by the Respondent-husband pending in the Family Court at Bandra Mumbai to the Family Court at Pune.
2. The Applicant has stated in her application that the marriage between her and the Respondent was solemnized on 24.05.2010. The Applicant and the Respondent are having two children by name Piyu (daughter) who is 7 years old and Rudra (son) who is one year old. Since disputes arose between the parties, the Applicant left the matrimonial home on 08.04.2015 alongwith the children and started residing with her parents at Pune. According to the Applicant, Piyu (daughter)

is suffering from thalassemia which is a blood disorder and for the said ailment she is required to be given blood at regular intervals. It is therefore, not possible for her to travel up and down from Pune to Mumbai to attend the proceedings filed by the Respondent against her under Section 9 of the Hindu Marriage Act seeking restitution of conjugal rights. She has no relatives or friends in Mumbai. Even otherwise, she is not paid a single rupee by the Respondent on and from 08.04.2015 towards maintenance for herself and for her two minor children, despite knowing that their 7 years old daughter is suffering from a serious medical problem.

3. Though the above application was served on the Respondent, the Respondent failed to remain present before this Court. In view thereof, this Court directed the Court Office to issue notice to the Respondent. Though the Respondent has received notice, on 19.04.2017, he has failed and neglected to appear before this Court. In view thereof, this Court adjourned the matter till today and directed the Court Office to serve a copy of the Order on the Respondent by hand-delivery. Today the Respondent is present in Court. Initially he agreed to go to Pune to defend the proceedings, if the Legal Aid Cell at Pune is directed to provide legal assistance to him. When this Court agreed to do so he immediately took a stand that he cannot attend the proceeding at Pune in view of the threat to his life at Pune. He has not given any particulars in support of this submission.

4. From the aforesaid facts, I am satisfied that grave inconvenience and hardship will be caused to the Applicant/wife if on each date of hearing she is required

to travel alongwith her two children from Pune to Mumbai to attend to the proceedings filed by the Respondent in the Family Court at Bandra, Mumbai. In fact, it will be impossible for her to travel with her daughter who is suffering from thalassemia for which she is required to be given blood at regular intervals. It will also be difficult for her to leave her daughter as well as her one year old child with her relatives at Pune since they need her constant care and attention. Even otherwise since April 2015 the Respondent who claims to be unemployed since July 2016 has not paid her a single rupee towards her maintenance and/or towards the maintenance of their two children. The Applicant has no funds to bear the travel expenses as well as the lodging and boarding expenses if she is required to travel from Pune to Bandra to attend to the proceedings filed by the Respondent before the Family Court at Bandra, Mumbai. The Respondent who claims to be unemployed can attend the Marriage Petition filed by him against the Applicant in the Family Court at Pune, on the adjourned dates. There is no substance in the submissions of the Respondent that he does not want to go to Pune in view of the threat to his life. I am therefore of the view that this is a fit case to transfer the Marriage Petition from the Family Court at Bandra, Mumbai to the Family Court at Pune. In view thereof, the following Order is passed:

- (a) The Marriage Petition No. 1812 of 2016 filed by the Respondent-husband is directed to be transferred from the Family Court at Bandra, Mumbai to the Family Court at Pune;
- (b) The Family Court at Bandra, Mumbai is directed to transmit the papers and

proceedings of Marriage Petition No. 1812 of 2016 to the Family Court at Pune;

(c) The Registrar, Family Court at Bandra, Mumbai to ensure that the papers and proceedings of Marriage Petition No. 1812 of 2016 are forwarded to the Family Court at Pune on or before 16.08.2017;

(d) The Respondent is granted liberty to apply to the Family Court at Pune seeking appointment of an Advocate from the Panel of Advocates on the Legal Aid Cell to represent him in Marriage Petition No.1812 of 2016;

(e) All concerned to act on an ordinary copy of this Order duly authenticated by the Private Secretary of this Court;

(f) The parties and/or their Advocates shall appear before the Principal Judge, Family Court at Bandra, Mumbai on 21st August, 2017 at 11.00 a.m. and obtain appropriate orders/directions.

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

(S.J.KATHAWALLA, J.)