

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
MISCELLANEOUS CIVIL APPLICATION NO. 202 OF 2017

Mrs. Snehal Sagar Oswal ... Applicant

Versus

Mr. Sagar Amrutlal Oswal ... Respondent

Mr. Vishal Tambat for the Applicant.
None for the Respondent.

CORAM : S.J. KATHAWALLA, J.
DATED : 14th SEPTEMBER, 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. 257 of 2016 filed by the Respondent-husband seeking restitution of conjugal rights pending before the Court of Civil Judge, Senior Division at Rajgurunagar, District : Pune to the Family Court at Nashik.

2. According to the Applicant, the marriage between her and the Respondent was solemnized at Pune on 07.08.2012. There is one issue born out of the marriage being a daughter named, Cheery who is three years old. Since disputes arose between the parties, the Applicant along with her minor daughter started residing with her parents at Nashik from the year 2015.

3. According to the Applicant, the distance between her parental home and the

Court at Rajgurunagar is 320 kms. (to and fro). According to her, it is not only inconvenient for her to travel about 320 kms. (to and fro) between Nashik and the Court at Rajgurunagar along with her minor daughter on every date of hearing, but even otherwise since she has no source of income and is not receiving any maintenance from the Respondent, it is financially impossible for her to undertake such a long journey along with her minor daughter and bear the travel as well as lodging and boarding expenses. The Applicant has submitted that she has filed an Application under the Protection of Women from Domestic Violence Act, 2005 which is pending before the Judicial Magistrate, First Class at Nashik which proceedings the Respondent is attending / shall be attending at Nashik. She has submitted that the Respondent has a grocery shop with a monthly turn over of Rs.2,00,000/-. She has submitted that the Respondent is therefore, well off and will be able to attend the proceedings, if the same are transferred from the Court of Civil Judge, Senior Division, Rajgurunagar, District - Pune to the Family Court at Nashik. The Applicant has therefore submitted that grave inconvenience and hardship will be caused to the Applicant, if she is required to attend the matrimonial proceedings filed by the Respondent before the Court of Civil Judge, Senior Division, Rajgurunagar, District - Pune. It is therefore submitted that the above application be allowed.

4. Though the Respondent is served with a copy of above Miscellaneous Civil Application, he has failed to appear before this Court by himself or through his Advocate. He has also not filed his Affidavit-in-reply. 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. I am therefore satisfied that grave inconvenience and hardship will be caused to the Applicant if she is required to travel the distance of 320 kms. (to and fro) from Nashik to Rajgurunagar, District : Pune and but to attend the proceedings filed by the Respondent on every adjourned dates alongwith her three years old daughter. Hence, the following Order is passed more so when the Respondent is attending / shall be attending the proceeding filed by the Applicant under the Protection of Women from Domestic Violence Act, 2005 at Nashik :

- (a) The Marriage Petition being No. 257 of 2016 filed by the Respondent-husband is directed to be transferred from the Court of Civil Judge, Senior Division, Rajgurunagar, District - Pune to the Family Court at Nashik.
- (b) The Registrar, Court of Civil Judge, Senior Division, Rajgurunagar, District - Pune shall ensure the papers and proceedings of Marriage Petition No.257 of 2016 reaches the Family Court at Nashik on or before 25th September, 2017.
- (c) The parties and/or their Advocates shall appear before the Family Court at Nashik on 28th September, 2017 at 11.00 a.m. and obtain appropriate orders.
- (d) The Family Court at Nashik shall hear the Marriage Petition being No.257 of 2016 and Divorce Petition No.168 of 2016 together and shall endeavour to dispose of the same within a period of six months from the date of this order.
- (e) The Family Court at Nashik shall not grant any adjournment/s to the parties

unless absolutely necessary. The parties too shall not seek any adjournment unless absolutely necessary.

(f) The parties as well as the Court of Civil Judge, Senior Division, Rajgurunagar, District - Pune and the Family Court at Nashik to act on an authenticated copy of this Order.

(g) The Advocate for the Applicant shall serve a copy of this order on the Respondent by Speed Post/Registered Post A.D. and/or by hand-delivery.

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

(S.J.KATHAWALLA, J.)