

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
MISC. CIVIL APPLICATION NO. 136 OF 2017

Mrs. Shradha Sudhir Gadgil ... Applicant

Versus

Mr. Sudhir Sadashiv Gadgil ... Respondent

Mr. Sagar Ambedkar for the Applicant.
None for the Respondent.

CORAM : S.J. KATHAWALLA, J.
DATED : 3RD AUGUST, 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 M.J. Petition No. 17 of 2016 filed by the Respondent-husband and pending before the Civil Judge, Senior Division, Ratnagiri under Section 9 of the Hindu Marriage Act, 1955, to the Civil Judge, Senior Division at Panvel and to be clubbed and tried along with Application No. 82 of 2014 filed by the Applicant before the J.M.F.C. at Karjat under Section 12 of the Protection of Women from Domestic Violence Act, 2005.

2. The marriage between the Applicant and the Respondent was solemnized on 18th March, 2012.

3. Since disputes arose between the parties from 1st August, 2014, the Applicant was constrained to reside at her parental home at Taluka - Karjat, District -

Raigad. The Applicant thereafter filed Application No. 82 of 2014 under Section 12 of the Protection of Women from Domestic Violence Act, 2005 against the Respondent before Judicial Magistrate First Class (J.M.F.C.) at Karjat. The Respondent filed M.J. Petition No. 17 of 2016 against the Applicant, before the Civil Judge, Senior Division, Ratnagiri for restitution of conjugal rights.

4. The Applicant has submitted that the distance between Ratnagiri and Panvel is about 615 kms (to and fro), her parents are old and suffering from age related health problems. Therefore, there is no one to accompany her all the way to Ratnagiri. She also has no relatives at Ratnagiri who can arrange for her overnight stay. Though, she has filed the case under the Protection of Women from Domestic Violence Act, 2005 before the JMFC at Karjat on 26th September, 2014, no order of maintenance is passed till date. Therefore, she is not receiving any amount from the Respondent towards maintenance and is completely at the mercy of her parents whose financial condition is very weak. Therefore even otherwise, it is not possible for her to bear the travel expenses as well as the boarding and lodging expenses of herself and an escort on every adjourned date before the Court at Ratnagiri. She has therefore submitted that grave inconvenience and hardship will be caused to her if the above Misc. Civil Application is not allowed and she is required to travel all the way from Karjat to Ratnagiri.

5. Though the Respondent is served with a copy of the above Misc. Civil Application, he has not come forward to defend the same and has also not filed his

Affidavit in Reply. In view thereof, what is stated by the Applicant has remained uncontroverted. I see no reason why the statements / submissions made by the Applicant in the above Application should not be accepted. The Applicant is from a very poor family, her parents are old and they suffer from age related health problems. Grave inconvenience and hardship will be caused to her if she is required to travel a distance of 615 kms (to and fro) in the absence of any escort and also in the absence of any friends and / or relatives who can arrange an overnight stay for her at Ratnagiri on every adjourned date. Even otherwise, due to her poor financial condition, she is unable to undertake an overnight journey to reach Ratnagiri from Karjat on every adjourned date of hearing and bear the travel as well as boarding and lodging expenses of herself and an escort at Ratnagiri. In the circumstances, I pass the following Order :

- i. The learned Civil Judge, Senior Division, Ratnagiri is directed to transmit the papers and proceedings of M.J. Petition No. 17 of 2016 to the Civil Judge, Senior Division, Panvel, District - Raigad;
- ii. The parties as well as the Civil Judge, Senior Division, Ratnagiri and the learned Civil Judge, Senior Division, Panvel, District Raigad to act on an authenticated copy of this Order;
- iii. The above Application is allowed in the aforesaid terms, with no order as to costs.

(S.J.KATHAWALLA, J.)