

Anand

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

MISC. CIVIL APPLICATION NO.95 OF 2016

Mrs. Leena Anil Hanumante .Applicant

Vs.

Mr. Anil Chandrakant Hanumante .Respondent

Mr. D. S. Mhaispurkar i/b. Mr. S. M. Mangaonkar, Advocate, for the
Applicant

Mr. M. J. Joshi, Advocate, for the Respondent

CORAM : REVATI MOHITE DERE, J.

DATE : 10.10.2017

P.C.

. Heard learned counsel for the parties.

2. By this Application, the Applicant – wife seeks transfer of the proceedings initiated by the Respondent – husband in the Family Court, 4th Court, Pune, bearing P. D. No.28 of 2015, to the Court of the learned Civil Judge (Senior Division), Kalyan, District – Thane.

3. Learned counsel for the Applicant submits that the Applicant was married to the Respondent in June, 2010 and that from the said wedlock, a son was born to them on 16.10.2014. He submitted

that on 30.03.2015, the Applicant left her matrimonial home and started residing at Badlapur with her parents. He submitted that in September, 2015, the Respondent filed a Petition seeking custody of their son in the Family Court, Pune and the Applicant filed proceedings under the Protection of Women from Domestic Violence Act, 2005 in the Court of the learned Judicial Magistrate First Class, Ulhasnagar, Kalyan in 2016. He submitted that the Applicant is finding it extremely difficult to travel to Pune and that she cannot either take her son aged about three years, nor can she leave him at home. He further submitted that the Applicant has not even received maintenance from the Respondent till date and as such, she is financially dependent on her parents. He submitted that the Applicant is and will be put to tremendous hardship and inconvenience, if the said proceedings are not transferred from Pune to Kalyan.

4. Learned counsel for the Respondent opposes the Application. He submitted that the Respondent is working as an Architect and that it is very difficult for him to leave Pune to attend the Court proceedings. He further submitted that the Respondent will also face tremendous hardship and inconvenience, if the said proceedings are transferred from Pune to Kalyan.

5. Perused the papers. The Applicant and the Respondent got married on 01.06.2010; that from the said wedlock, a son was born on 16.10.2014; that on 30.03.2015 the Applicant left her matrimonial home; that on 16.09.2015, the Respondent filed a Petition seeking custody of his son in the Family Court, Pune; that in 2016, the Applicant filed proceedings in the Court of the learned Judicial Magistrate First Class, Ulhasnagar, Kalyan under the Protection of Women from Domestic Violence Act, 2005. It also appears that the Applicant had filed a case under Section 498A of the Indian Penal Code as against the Respondent and others in Pune. Admittedly, the Applicant is residing with her parents at Badlapur. It also appears that till date, no maintenance has been paid either to the Applicant or to the son. The age of the Applicant and Respondent's son is three years, thus, making it difficult for the Applicant to travel to Pune either with her son or without him. The Applicant's parents are looking after the day to day expenses of the Applicant and her son and if the Applicant is required to travel, she will have to take her son and some other person, thus adding to her parents expenses. It also appears that the Applicant is a housewife and presently has no source of income. It is, thus, evident that tremendous hardship and inconvenience will be caused to the Applicant, if the aforesaid proceedings pending before the Family Court, Pune are

not transferred to the Court of the learned Civil Judge (Senior Division), Kalyan, District – Thane, whereas, no prejudice will be caused to the Respondent, who is already required to attend the Court of the learned Judicial Magistrate First Class, Ulhasnagar, Kalyan.

6. Considering the aforesaid, the Application is allowed in terms of prayer clause (A). Both the parties to appear before the learned Civil Judge (Senior Division), Kalyan, District – Thane on 17.11.2017 at 11.00 a.m.

All concerned to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)