

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

MISC. CIVIL APPLICATION NO. 92 OF 2016

Mrs. Divya Rajeshkumar Nair @ Divya Gopi ... Applicant

Versus

Rajeshkumar Ramachandran Nair ... Respondent

Mr. Jayesh Kocheta for the Applicant.

Ms. Purvi Shah for the Respondent.

CORAM : S.J. KATHAWALLA, J.

DATED : 8TH AUGUST, 2017

P.C.:

1. The above Misc. Civil Application is filed under Section 24 of the Code of Civil Procedure, 1908 by the Applicant wife seeking transfer of the Petition No. A-376 of 2015 filed by the Respondent husband for restitution of conjugal rights from the Family Court, Thane to Family Court, Pune.

2. The marriage between the parties was solemnized on 2nd September, 2011. On 16th January, 2014, the parties were blessed with a son named 'Aniruddha', who is now three years old. The Applicant is employed with IBM Private Limited, Hinjewadi, Pune as Software Developer. The Applicant has submitted that since she has to look after her job as well as her child, grave inconvenience and hardship will be caused to her if she is required to travel from Pune to the Family Court, Thane on every date of hearing. On 6th February, 2016, the Applicant has filed Criminal

Miscellaneous Application No. 93 of 2016 against the Respondent before the JMFC, Vadgaon Maval, Pune under Section 23 of the Protection of Women from Domestic Violence Act, 2005. It is submitted that the Respondent will have to attend the said proceedings at Pune. The Applicant has also submitted that since the Respondent is no longer residing at Thane but is working at Bengaluru instead of coming all the way from Bengaluru to Thane, he can come from Bengaluru to Pune to attend to the Petition filed by him seeking restitution of conjugal rights.

3. The Respondent has filed his Affidavit in Reply, wherein he has denied and disputed all the allegations made by the Applicant. He has submitted that no inconvenience and hardship will be caused to the Applicant, if she is required to travel from Pune to Thane. He has also stated that he is not aware of the proceedings filed by the Applicant under Section 23 of the Protection of Women from Domestic Violence Act, 2005.

4. I have considered the submissions advanced by the learned Advocates appearing for the parties.

5. Admittedly, the Applicant is a working woman. She is also required to take care of her minor child who is about three years old. It is true that during her working hours the child is taken care of by her family members, however I cannot loose sight of the fact that if she is required to also attend the Court proceedings at Thane, it will certainly be at the cost of the time that she can devote to her child. Though the Respondent has stated that he is not served with the proceedings filed by the

Applicant under Section 23 of the Protection of Women from Domestic Violence Act, 2005, he will have to attend the said proceedings before the Court of JMFC, Pune, once the same is served on him. What is most important and relevant is the fact that the Petition seeking restitution of conjugal rights is filed by the Respondent before the Family Court, Thane on 10th October, 2015. Thereafter admittedly the Respondent has shifted to Bengaluru and is now residing at Bengaluru since the last one year. Therefore, if the Respondent husband is travelling all the way from Bengaluru to Thane, Mumbai, he can instead travel from Bengaluru to Pune to pursue his Petition seeking restitution of conjugal rights thereby avoiding any inconvenience and hardship being caused to the Applicant wife. In the circumstances, I pass the following order :

- i. Petition No. A-376 of 2015 filed by the Respondent husband before the Family Court, Thane is transferred to the Family Court, Pune.
- ii. The learned Principal Judge, Family Court, Thane shall ensure that the papers and proceedings of Petition No. A-376 of 2015 are received by the Principal Judge, Family Court, Pune on or before 5th October, 2017.
- iii. The Family Court, Pune shall endeavour to dispose of Petition No. A-376 of 2015 within six months from the date of this order. The Court shall not grant adjournment/s to either side unless absolutely necessary.
- iv. Parties and / or their Advocates shall appear before the Family Court, Pune on 9th October, 2017 at 11.00 a.m. and obtain appropriate orders / directions.
- iv. The parties as well as the learned Principal Judge, Family Court, Thane and

the Principal Judge, Family Court, Pune to act on an authenticated copy of this order.

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

(S.J.KATHAWALLA, J.)