

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
MISC. CIVIL APPLICATION (ST) NO. 10373 OF 2017

Sangita Ashok Zimbal ... Applicant

Versus

Ashok Waman Zimbal ... Respondent

Mr. Siddheshwar Kalel for the Applicant.
None for the Respondent.

CORAM : S.J. KATHAWALLA, J.
DATED : 7TH 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 Hindu Marriage Petition No. 554 of 2016 filed by the Respondent husband from the Court of Civil Judge, Senior Division, Dhule at Dhule to the Court of Civil Judge, Senior Division, Vaduj, Tal. Khatav, District : Satara.

2. According to the Applicant, the marriage between the parties was solemnized on 7th September, 2007. The couple was blessed with a daughter named 'Divya' on 15th September, 2009. Since disputes arose between the parties, the Applicant along with her minor daughter started residing with her old parents at Ladewadi, Post. Jambhulani, Tal. Man, District : Satara.

3. According to the Applicant, due to poverty her parents are unable to

maintain themselves. They were therefore unable to maintain the Applicant and her minor daughter. The Applicant therefore filed an Application seeking maintenance under Section 125 of the Code of Criminal Procedure, 1973 before the JMFC, Mhaswad. By an order dated 25th March, 2013, the JMFC granted maintenance of Rs.1,800/- per month to the Applicant and Rs.700/- per month for the minor daughter from 28th December, 2011. Thereafter, the Respondent in order to cause harassment to the Applicant filed the Hindu Marriage Petition No. 75 of 2012 seeking restitution of conjugal rights under Section 9 of the Hindu Marriage Act, 1955 before the Civil Judge, Senior Division, Dhule. The Applicant had filed Misc. Civil Application No. 154 of 2014 before this Court for transfer of the Hindu Marriage Petition No. 75 of 2012 from the Court of Civil Judge, Senior Division, Dhule to the Court of Civil Judge, Senior Division, Vaduj, Tal. Khatav, Dist. Satara, which Application was allowed by this Court by an order dated 1st April, 2014. The Respondent thereafter did not pursue the Hindu Marriage Petition No. 75 of 2012 and the same was by an order dated 11th December, 2015 dismissed for want of prosecution.

4. According to the Applicant, the Respondent in order to cause further harassment to the Applicant, on 19th December, 2016 filed Hindu Marriage Petition No. 554 of 2016 before the Civil Judge, Senior Division, Dhule seeking dissolution of marriage of the Applicant and the Respondent. Despite the order passed by the Court directing the Respondent to pay maintenance to the Applicant and their minor daughter, the Respondent has failed to make payments, because of which, the

Applicant is finding it very difficult to sustain herself and her daughter. The Applicant has submitted that the Respondent also belongs to the same Taluka i.e. Man, District : Satara, where she is residing with her parents. Therefore, there is no good reason why the Respondent should file the Hindu Marriage Petition No. 554 of 2016 at Dhule, which is situated more than 500-550 kms. from the parental home of the Applicant. There is no transport facility available to enable her to travel from her parental home to Dhule within a period of one day. Therefore, apart from the fact that she is financially not sound to undertake to travel from Taluka Man, District : Satara to Dhule, grave inconvenience and hardship will be caused to the Applicant, if she is required to travel a distance of 1100 kms from Man, District : Satara to Dhule and back. She has therefore submitted that the above Misc. Civil Application be allowed.

5. The order passed by this Court which was forwarded to the Respondent through Speed Post on 26th July, 2017 was returned with remark 'Refused'. However, the Respondent appeared before this Court on 4th August, 2017, when he was asked to remain present along with his Advocate on 7th August, 2017 i.e. today. Today, when the matter is called out, the Respondent is not present. He is also not represented by any Advocate. He has not filed his Affidavit in Reply to the above Misc. Civil Application. In view thereof, what is stated by the Applicant has remained uncontroverted. I see no reason as to why the statements / submissions made by the Applicant in the above Application should not be accepted. I am therefore satisfied that grave inconvenience and hardship will be caused to the Applicant if she is

required to travel a distance of 1100 kms i.e. from Taluka Man, Satara to Dhule and back to attend the divorce proceedings filed by the Respondent before the Civil Judge, Senior Division, Dhule. In the circumstances, I pass the following Order :

- i. Hindu Marriage Petition No. 554 of 2016 filed by the Respondent husband before the Court of Civil Judge, Senior Division, Dhule is transferred to the Court of Civil Judge, Senior Division, Vaduj, Taluka Khatav, District : Satara.
- ii. The learned Civil Judge, Senior Division, Dhule shall ensure that the papers and proceedings of the Hindu Marriage Petition No. 554 of 2016 are received by the learned Civil Judge, Senior Division, Vaduj, Taluka Khatav, District : Satara on or before 23rd October, 2017.
- iii. The parties as well as the learned Civil Judge, Senior Division, Dhule and the learned Civil Judge, Vaduj, Taluka Khatav, District : Satara to act on an authenticated copy of this order.
- iv. Parties and / or their Advocates shall appear before the Civil Judge, Vaduj, Taluka Khatav, District : Satara on 30th October, 2017 at 11.00 a.m. and obtain appropriate orders / directions.
- v. The Civil Judge Senior Division, Vaduj, Taluka Khatav, District : Satara shall endeavour to dispose of Hindu Marriage Petition No. 554 of 2016 within a period of six months from 30th October, 2017.
- vi. The Civil Judge Senior Division, Vaduj, Taluka Khatav, District : Satara shall not grant any adjournment to the parties unless absolutely necessary. The

parties too shall not seek any adjournment unless absolutely necessary.

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

(S.J.KATHAWALLA, J.)