

matter may still need to be transferred to the Family Court at Solapur."

3. Mr. Justice Gupte passed the above Order, since in the petition for restitution of conjugal rights, the Respondent-husband had filed an application seeking access to the minor daughter who is residing with the Applicant-mother. An Order of access was passed which according to the Respondent has been breached by the Applicant and a Contempt Application/Petition is filed by the Respondent-husband against the Applicant.

4. It is submitted before this Court that the Applicant-wife has not breached any orders, but the child is not willing to meet the father, since the child has in the past witnessed his conduct. It was also submitted that the Respondent-husband has not contributed a single rupee towards maintenance of the daughter. Since the Advocate appearing for the Respondent informed the Court that the Respondent is willing to bear the actual expenses of the minor daughter, this Court directed the parties to remain present in Court alongwith their children (the daughter) with a view to assist the parties in arriving at an amicable settlement. Accordingly, the parties appeared before me alongwith their children on 17.06.2017. This Court spent about three hours with the Applicant, the Respondent and their children. The Respondent informed this Court that he is highly qualified and he is giving consultation/lectures and printing/publishing books for children and he is willing to bear the actual expenses of his daughter. The matter was therefore adjourned to 26.06.2017 despite being a Bank Holiday, to enable the parties and their Advocates to come with the Consent Terms.

However, on 26.06.2017, the Respondent-husband expressed his inability to even take care of the actual expenses of the daughter and hence, no agreement could be arrived between the parties. The Applicant-wife is working in a School at Solapur and she is residing with her minor daughter who is six years old. She earns approximately about Rs.18,000/- per month. The educational and other expenses of the child being substantial, the amount of Rs.18,000/- which she earns is inadequate to sustain herself as well as her minor daughter. The Applicant and the Respondent also have a son whose custody at present is with the Respondent. However, the Respondent has kept the son in a boarding school at Rajasthan and the Respondent at present is residing at Sangli with his parents. The Applicant has submitted that the distance between Solapur and Sangli is approximately 460 kms (to and fro) and would involve a journey of about ten hours. It is not possible for her to take leave from her job on every adjourned date and visit Sangli alongwith her daughter who is schooling, in order to attend the Contempt proceedings filed by the Respondent in Petition No.442 of 2015 before the Court at Sangli. She has submitted that she is finding it very difficult to take care of the expenses of herself and her child in the income that she is earning and she is required to depend on her parents for financial help. The Respondent has not paid her a single rupee towards the maintenance of the minor daughter in the last 4-5 years. It is therefore, very difficult for her to bear her travel expenses and that of her child and an escort from Solapur to Sangli. She is also unable to bear the boarding and lodging expenses during her visit to Sangli on every

adjourned date. She has filed a Petition seeking divorce before the Family Court at Solapur bearing No.A-16 of 2016 and Criminal Miscellaneous Application No.485 of 2015 before the Judicial Magistrate, First Class at Solapur against the Respondent under Sections 12, 18, 19, 20, 21, 22 of the Protection of Women from Domestic Violence Act, 2005. The Respondent is coming to Solapur to attend the said proceedings. He himself has filed the Application seeking access of her minor daughter at Sangli. She has therefore, submitted that the above Miscellaneous Civil Application may be allowed.

5. The Respondent has filed his Affidavit-in-Reply only on 09.06.2017, wherein he has refuted the allegations made by the Applicant and has submitted that it will be inconvenient for him to travel from Solapur to Sangli. He has submitted that he has faced incidents of violence at Solapur at the hands of the family members of the Applicant.

6. I have considered the submissions advanced by the Learned Advocates appearing for the parties. Though the Petition filed by the Respondent seeking restitution of conjugal rights is disposed off, the Contempt Petition filed by the Respondent against the Applicant in the said petition is yet to be heard and decided. The Applicant will therefore, have to visit Sangli all the way from Solapur by undertaking a journey of 460 kms. (to and fro). She is a working lady who has to take care of her job as well as her minor daughter, and it will certainly cause grave inconvenience and hardship to her, if the Applicant is required to travel 460 kms. (to

and fro) to attend the proceedings filed before the Court at Sangli by the Respondent-husband. As stated by her, the income that she receives is inadequate to take care of her expenses as well as the expenses of her minor child. The Respondent has admittedly not paid a single rupee to her towards the maintenance of her child in the last 4-5 years. The Respondent is attending the proceedings at Solapur which are filed by the Applicant-wife. He has himself made an application and obtained orders from the Court at Sangli to visit Solapur every week and have access to her daughter. Therefore, the allegation made by him as regards the threats and violence he had to face at the hands of family members of the Applicant appears to be baseless. No police complaint in this regard is produced or relied upon by the Respondent-husband. The Respondent is not required to look after the minor son on a day-to-day basis since he is in a boarding school. Though he claims that he is highly qualified and has a business of printing/publishing books, he also states that he has no income and therefore, cannot take care of even the actual expenses of the minor daughter. In the circumstances, the above Miscellaneous Civil Application deserves to be transferred from the Civil Judge Senior Division at Sangli to the Family Court at Solapur. Hence, the following Order :

- (a) The Marriage Petition No. 442 of 2015 filed by the Respondent-husband is directed to be transferred from the Court of Civil Judge, Senior Division, Sangli to the Family Court at Solapur;
- (b) The Court of Civil Judge, Senior Division, Sangli is directed to transmit the

papers and proceedings of Marriage Petition No. 442 of 2015 to the Family Court at Solapur;

(c) The parties as well as the Court of Civil Judge, Senior Division, Sangli and the Family Court at Solapur to act on an authenticated copy of this Order ;

(d) The parties and/or their Advocates shall appear before the Family Court at Solapur on 21st August, 2017 at 11.00 a.m. and obtain appropriate orders/directions.

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

(S.J.KATHAWALLA, J.)