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***IN THE HIGH COURT OF JUDICATURE AT BOMBAY***

***CIVIL APPELATE JURISDICTION***

***MISCELLANEOUS CIVIL APPLICATION NO.128 OF 2016***

Mrs.Jui Ankur Koppikar ..Applicant.

V/s.

Ankur Ravindra Koppikar ..Respondent.

Mr.Dayanand Waghmare for the Applicant.

Ms.Shoba Mehra with Shivkumar Mishra for the Respondent.

***Coram : N.M.Jamdar, J.***

***Date : 29 March 2017***

**ORAL ORDER**

Heard the learned counsel for the parties. Considering the nature of dispute, taken up for final disposal by consent of the parties.

2. Miscellaneous Civil Application is filed by the Applicant-wife for transfer of the Hindu Marriage Petition No.250/2015 from Vasai where it is pending, to Thane.

3. The Respondent filed Hindu Marriage Petition No.250/2015 in the Court of Civil Judge, Senior Division, Vasai under section 13(1) (ia) of the Hindu Marriage Act, 1955. According to the Respondent, the he and his parents were subjected to mental cruelty by the Applicant herein and on this and other grounds, he sought declaration that the marriage solemnized between the Applicant and Respondent on 29 November 2013 be dissolved. The Applicant filed a case under the Protection of Women from Domestic Violence Act, 2005 bearing D.V.A. Case No.322/2015 in the Court of the Judicial Magistrate First Class, Thane. In this case, the Applicant has joined the Respondent and his parents. The application under the Domestic Violence Act was filed on 4 December 2015.

4. The learned counsel for the Applicant submitted that the Applicant currently resides at Thane with her parents and she has a small child to look after. He submitted that the Applicant is not currently employed, and it is difficult for her to travel to Vasai which is 50 kms. away. He also contended that the Respondent is working at Malad, Mumbai and can easily attend the dates in Thane if the matter is transferred. The learned counsel for the Respondent submitted that the Applicant has not disclosed the correct facts in the application and the child is not one year old but two and half years old and the distance is not 50 kms but 48 kms. She submitted that the Applicant was working at Andheri, Mumbai earlier and there is

no impediment for her to attend the case at Vasai. Reliance is placed on the decision of the Apex Court in the case of *Gayatri Mohapatra V/s. Ashit Kumar Panda*<sup>1</sup> to contend that mere inconvenience of travelling is not a ground for transfer of the petition.

5. Whether the child is one year old or two and half years old, that the child is very young, is not in dispute. It is not placed on record that the Applicant is currently working anywhere and appears to be staying with her parents. The Courts would generally lean in favour of the convenience of the wife in these circumstances. The difficulty of the Applicant to either travel with the child or leave the child alone at home can be well understood. Considering the road and rail connectivity, it is not very difficult for the Respondent to travel to Thane. As far as the decision in the case of *Gayatri Mohapatra (supra)* is concerned, the facts would reveal that there was no child of young age involved and the transfer was sought only on the ground of inconvenience of travelling.

6. Considering this position, it was put to the Applicant that to minimize inconvenience to all concerned, if the matter is transferred to Thane, the Applicant will not insist of the presence of the parents of Respondent i.e. Respondent Nos.2 and 3 in the Domestic Violence Case No.322/2015. The learned counsel for the Applicant has agreed to this suggestion. The learned counsel for the Respondent, on instructions, accepted this as a fair course of action.

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1 (2003) 11 Supreme Court Cases 731

In these circumstances, the miscellaneous civil application is disposed of as under:-

- (i) Hindu Marriage Petition No.250/2015 pending on the file of Civil Judge, Senior Division, Vasai is transferred to the Civil Court, Senior Division at Thane and the same shall be heard along with D.V.A. Case No.322/2015;
- (ii) The learned Magistrate before whom the D.V.A. Case No. 322/2015 is pending will pass an order as per law, exempting the appearance of Respondent Nos.2 and 3 in the said case;
- (iii) Both parties will co-operate with the Courts for early disposal of the cases pending and will not seek adjournments unless absolutely necessary;
- (iv) The Miscellaneous Civil Application is disposed of in the above terms. No costs.

*(N.M.Jamdar, J.)*