

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
MISC. CIVIL APPLICATION NO.18 OF 2017**

Shivanj Shivprasad Bharti	...	Applicant
versus		
Shivprasad Annata Bharti	...	Respondent

Mr. Sachin Chandan, for Applicant.

None for Respondent.

Mr. Gurunath B. Dhule, Sub Post Master, H.C.Present.

CORAM: S.J. KATHAWALLA, J.

DATE: 4th SEPTEMBER, 2017

P.C.:

1. By the above Misc. Civil Application filed under Section 24 of the Code of Civil Procedure, 1908, the Applicant-wife seeks transfer of the Hindu Marriage Petition No.99 of 2016 filed by the Respondent-husband and pending before the Civil Judge, Senior Division, Ratnagiri to the Civil Judge, Senior Division, at Kalyan.

2. The marriage between the Applicant and Respondent was solemnized on 16-06-2014. Since disputes arose between the parties, the Applicant started residing with her parents from 19-04-2016 at Kalyan. Within two days of separation, the Respondent husband filed a Divorce Petition No.99 of 2016 before the Court at Ratnagiri i.e. on 21-04-2016. It is submitted on behalf of the Applicant that the distance between Kalyan to Ratnagiri is 720 kms (to and fro). It is difficult for her to travel alone from Kalyan to Ratnagiri on the dates fixed for hearing before the Court at Ratnagiri, because the same would involve an overnight journey. In any event, the

Respondent has not paid her a single rupee towards her maintenance since the day of their separation. She is completely dependent on her parents for her day to day existence. Therefore, it is also not possible for her to bear the travel expenses as well as the expenses towards the boarding and lodging of herself and an escort. She has submitted that the Respondent is earning Rs.35,000/- per month and is also attending the proceedings filed by her before the Judicial Magistrate at Kalyan under the Protection of Women from Domestic Violence Act, 2005. She has therefore, submitted that grave inconvenience and hardship will be caused to her if she is required to travel from Kalyan to Ratnagiri to attend the divorce proceedings filed by the Respondent, whereas, it will not inconvenience the Respondent if he has to attend the proceedings at Kalyan, more particularly since he is already attending the proceedings filed by her at Kalyan

3. The Respondent has been served with a copy of the above Misc. Civil Application and the copies of the orders passed by this Court. Mr. Gurunath B. Dhule, Sub Post Master High Court, Bombay has today appeared before the Court and produced an acknowledgment of the Respondent dated 23-08-2017. A photocopy of the same is taken on record and marked 'X' for identification. However, the Respondent has not remained present before this Court by himself and/or through his Advocate. The Respondent has also not filed any Affidavit in Reply to the above Misc. Civil Application. In the absence of any defence or contest by the Respondent,

the averments contained in the Misc. Civil Application have remained uncontroverted. I see no reason why the statements / submissions made by the Applicant in the above Misc. Civil Application should not be accepted. In the circumstances, I am satisfied that grave inconvenience and hardship will be caused to the Applicant, if she is required to travel from Kalyan to Ratnagiri i.e. 720 kms to and fro, more so when she is not paid a single rupee by the Respondent till date towards her maintenance and she is completely dependent on her parents for her day to day survival. In the circumstances, I pass the following order :

- i. The Hindu Marriage Petition No.99 of 2016 filed by the Respondent before the Civil Judge, Senior Division, Ratnagiri, stands transferred to the Civil Judge, Senior Division at Kalyan.
- ii. The Court of Civil Judge, Senior Division, Ratnagiri, shall transmit the papers and proceedings of Hindu Marriage Petition No.99 of 2016 to the Civil Judge, Senior Division at Kalyan on or before 16th September, 2017.
- iii. Parties and / or their Advocates shall appear before the Civil Judge, Senior Division at Kalyan on 19th September, 2017 at 11.00 a.m. and obtain appropriate orders / directions.
- iv. The Civil Judge, Senior Division, at Kalyan, shall endeavour to hear and dispose off Hindu Marriage Petition No.99 of 2016 within a period of six months from 19th September, 2017. The Civil Judge, Senior Division at Kalyan shall not grant any

adjournments to the parties unless absolutely necessary. The parties too shall not seek any adjournments unless absolutely necessary.

v. A copy of this order shall be forthwith forwarded to the Respondent by the Advocate for the Applicant by Speed Post A.D./Registered Post A.D. and/or by hand delivery.

vi. The parties as well as the learned Civil Judges, Senior Division, Ratnagiri and Kalyan to act on an authenticated copy of this order.

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

(S.J.KATHAWALLA, J.)