

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
MISCELLANEOUS CIVIL APPLICATION (ST) NO. 17082 OF 2017

Mrs. Payal Amit Pardeshi ... Applicant

Versus

Mr. Amit Kamlesh Pardeshi ... Respondent

Mr. Pravartak Pathak for the Applicant.
None for the Respondent.

CORAM : S.J. KATHAWALLA, J.
DATED : 12th SEPTEMBER, 2017

P.C.:

1. By the above Miscellaneous Civil Application filed under Section 24 of the Code of Civil Procedure, 1908, the Applicant-wife seeks transfer of Marriage Petition No.418 of 2016 filed by the Respondent-husband seeking restitution of conjugal rights pending before the Court of Civil Judge, Senior Division at Panvel to the Family Court at Nashik.

2. According to the Applicant, the marriage between her and the Respondent was solemnized at Nashik on 30.04.2015. Since disputes arose between the parties, they started residing separately from 13.08.2015. Due to intervention of the family members, parties started residing together since 17.05.2016. However, according to the Applicant, due to cruel treatment meted out to her by the Respondent, she once again returned to her parental home at Nashik on 02.07.2016. On 06.02.2017, the

Applicant has filed Divorce Petition being No.A-76 of 2017 before the Family Court at Nashik. Though the Respondent had filed Marriage Petition No.418 of 2016 seeking restitution of conjugal rights before the Court of Civil Judge, Senior Division at Panvel, copies of the said proceedings were served on the Respondent only after she filed the Divorce Petition before the Family Court at Nashik.

3. The Applicant has submitted that she resides with her mother at Nashik and will be very inconvenient for her to travel a distance of 400 kms. (to and fro) from Nashik to Panvel and back. Even otherwise, she is unemployed and not receiving any maintenance from the Respondent. She is financially dependent on her parents and is unable to bear the travel expenses of herself and the persons accompanying her to attend the proceedings before the Court of Civil Judge, Senior Division at Panvel. She has submitted that as against this, the Respondent is having a shop dealing with stationery items and he is already attending the divorce petition filed by the Applicant against the Respondent before the Family Court at Nashik. She has therefore submitted that grave inconvenience and hardship will be caused to her if she is required to travel from Nashik to Panvel to attend the proceedings filed by the Respondent before the Family Court at Nashik on every adjourned date.

4. Though the Respondent is served with a copy of above Miscellaneous Civil Application, he has failed to appear before this Court by himself or through his Advocate. He has also not filed his Affidavit-in-reply. In view thereof, what is stated by the Applicant in her application has remained uncontroverted. There is no reason

why this Court should not accept the submissions made by the Applicant in her application. In my view, grave inconvenience and hardship will be caused to the Applicant, who is residing with her mother, if she is required to travel a distance of 400 kms. from Nashik to Panvel and back to attend the proceedings filed by the Respondent before the Court of Civil Judge, Senior Division at Panvel, more so, when she is not paid a single rupee towards maintenance after her separation with the Respondent, and also because it is necessary that one court should hear both the proceedings, i.e. proceedings filed by the Applicant for divorce and proceedings filed by the Respondent for restitution of conjugal rights. In view thereof, I pass the following Order.

- (a) The Marriage Petition No. 418 of 2016 filed by the Respondent-husband is directed to be transferred from the Court of Civil Judge, Senior Division at Panvel to the Family Court at Nashik.
- (b) The Registrar, Court of Civil Judge, Senior Division at Panvel shall ensure that the papers and proceedings of Marriage Petition No.418 of 2016 reaches the Family Court at Nashik on or before 25th September, 2017.
- (c) The parties and/or their Advocates shall appear before the Family Court at Nashik on 27th September, 2017 at 11.00 a.m. and obtain appropriate orders.
- (d) The Family Court at Nashik shall hear the Divorce Petition being No.A-76 of 2017 and Marriage Petition No.418 of 2016 together and shall endeavour to dispose of the same within a period of six months from the date of this order.

(e) The parties as well as the Court of Civil Judge, Senior Division at Panvel and the Family Court at Nashik to act on an authenticated copy of this Order.

(f) The Family Court at Nashik shall not grant any adjournment to the parties unless absolutely necessary. The parties too shall not seek any adjournment unless absolutely necessary.

(g) The Advocate for the Applicant shall serve a copy of this order on the Respondent by Speed Post/Registered Post A.D. and/or by hand-delivery.

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

(S.J.KATHAWALLA, J.)