

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
MISC. CIVIL APPLICATION NO. 233 OF 2016

Sou. Mandakini Shankar Kolekar ... Applicant

Versus

Shri Shankar Chintaman Kolekar ... Respondent

Mr. Ajit Savagave for the Applicant.

Mr. Raju Yamgar for the Respondent.

CORAM : S.J. KATHAWALLA, J.

DATED : 8TH AUGUST, 2017

P.C.:

1. The above Misc.Civil Application is filed by the Applicant wife under Section 24 of the Code of Civil Procedure, 1908 seeking transfer of Hindu Marriage Petition No. A-993 of 2016 filed by the Respondent husband pending before the 7th Family Court, Bandra, Mumbai to the Court of Civil Judge, Senior Division, Sangli.
2. The marriage between the parties was solemnized on 15th February, 2012. Due to disputes between the parties, the Applicant, since August-2015 started residing with her parents at village Baj, Dist. Sangli. On 27th August, 2015, the complaint of the Applicant is registered by Govandi Police Station, Mumbai vide CR No. I-95 of 2015 and an FIR came to be registered against the Respondent under Sections 498A, 506(II), 323, 504 read with 34 of the Indian Penal Code, 1860.
3. The Applicant has submitted that the distance between her residence and the 7th Family Court, Bandra, Mumbai is approximately 450 Kms. She has no source of

income and the financial condition of her parents is not sound. It is not possible for her to attend the Court proceedings at Bandra, Mumbai by travelling such a long distance. She has also submitted that since she has lodged an FIR against the Respondent and her in-laws, there is danger to her life at the hands of the Respondent and therefore she cannot take the risk of an overnight stay at Mumbai. She has also submitted that she is undergoing depression and is taking Psychiatric help. She has therefore submitted that the above Misc. Civil Application be allowed and the Hindu Marriage Petition bearing No. A-993 of 2016 filed by the Respondent before the 7th Family Court, Bandra, Mumbai be transferred to the Civil Judge, Senior Division, Sangli.

4. The Respondent has filed his detailed Affidavit in Reply, wherein he has stated that his parents are senior citizens, who are not keeping well. His mother is undergoing treatment for problems relating to spine. His father had a heart attack in the month of October-2014 and thereafter he is facing several health issues. He has annexed medical records of his parents. He has stated that except for him, there is no one in his house to look after his parents. He therefore cannot leave his parents alone and attend to the Court proceedings at Sangli. The Respondent has further stated that he is the only son of his parents and is the only earning member in the family. He is also required to attend the Court of the Metropolitan Magistrate, Kurla, Mumbai along with his parents, where criminal proceedings are going on pursuant to the FIR lodged by the Applicant. The Respondent has stated in his Reply that he is a teacher /

lecturer in a Polytechnic. It is very difficult for him to repeatedly get leave from the educational institution, where he is serving and if he also applies for leave to attend to the proceedings before the Court at Sangli, he may lose his job. He has submitted that in fact the Applicant is residing at Thane along with her cousin sister – Mrs. Usha Chandrakant Bangar and occasionally the Applicant goes to her village at Baj, Dist. Sangli. He has submitted that he is ready to bear the reasonable expenses of the Applicant and a person accompanying her that will be incurred to attend the Court proceedings at Bandra, Mumbai. He therefore submitted that this Court may not pass orders as sought by the Applicant in the above Misc. Civil Application.

5. I have considered the submissions advanced on behalf of both the parties. I have enquired from the Advocate for the Applicant, whether the Applicant is willing to travel to Mumbai and attend the Court proceedings before the 7th Family Court, Bandra, Mumbai, if the Respondent is directed to pay the travel expenses of the Applicant and a person accompanying her including their boarding and lodging expenses. However, the Advocate for the Applicant has insisted that Hindu Marriage Petition No. A-993 of 2016 be transferred from the 7th Family Court, Bandra, Mumbai to the Civil Judge, Senior Division, Sangli.

6. Though it cannot be disputed that it will be inconvenient for the Applicant to travel a distance of approximately 450 Kms. to attend the proceedings filed by the Respondent before the 7th Family Court, Bandra, Mumbai, I also cannot lose sight of the fact that the Respondent too will have to travel the same long distance if Hindu

Marriage Petition No. A-993 of 2016 filed by him before the 7th Family Court, Bandra, Mumbai is transferred to the Civil Judge, Senior Division, Sangli. The Respondent has produced the medical records showing that his parents are suffering from serious health problems and they require his constant care and attention. The Respondent is the only son of his parents and the only earning member in the family. He is a teacher / lecturer in a Polytechnic College. He along with his parents are also required to attend the criminal proceedings filed by the Applicant against him and his parents before the Metropolitan Magistrate, Kurla, Mumbai. It cannot be disputed that if for attending the Court proceedings, he keeps on taking leave, there is a risk of him loosing his job. Keeping in mind all the problems faced by the Applicant as well as the Respondent and also keeping in mind that both are reasonably educated, I pass the following order :

- i. The 7th Family Court, Bandra, Mumbai shall allow the Applicant to defend the Hindu Marriage Petition No. A-993 of 2016 through video-conferencing.
- ii. The District Court / Court of Civil Judge, Senior Division at Sangli shall allow the Applicant to use the video-conferencing facilities.
- iii. The Applicant shall be at liberty to affirm, verify her pleadings / Affidavits before the Civil Judge, Senior Division at Sangli and forward the same to the 7th Family Court, Bandra, Mumbai, which the 7th Family Court, Bandra, Mumbai shall accept.
- iv. Since the proceedings shall be conducted through Video Conferencing, the

7th Family Court, Bandra, Mumbai shall fix the hearing of the matter at the time specified in advance.

v. The 7th Family Court, Bandra, Mumbai shall endeavour to dispose of Hindu Marriage Petition No. A-993 of 2016 within a period of six months from the date of this order.

vi. The 7th Family Court, Bandra, Mumbai shall not grant any adjournment to the parties unless absolutely necessary. The parties too shall not seek any adjournment unless absolutely necessary.

vii. All contentions of the parties are kept open.

viii. The above Misc. Civil Application is accordingly disposed off.

(S.J.KATHAWALLA, J.)