

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
MISC. CIVIL APPLICATION NO. 211 OF 2017

Asmita Indrajit Rajput

... Applicant

Versus

Indrajit Santramsing Rajput

... Respondent

Mr. Omkar Nagavekar i/b. Ms. Prabha Badadare for the Applicant.

Mr. Rupesh Lanjekar for the Respondent.

CORAM : S.J. KATHAWALLA, J.
DATED : 3RD AUGUST, 2017

P.C.:

1. The above Misc. Civil Application is filed under Section 24 of the Code of Civil Procedure, 1908 by the Applicant wife seeking transfer of the Regular Civil Appeal No. 68 of 2016 filed by the Respondent husband from the Court of Additional District Judge, Ichalkaranji to the Court of District Judge, Solapur.

2. The Applicant has submitted that the marriage between her and the Respondent was solemnized on 10th May, 2007. After the marriage, they were blessed with a daughter named 'Indra', who is now 13 years old. In the year 2014, the Respondent filed Hindu Marriage Petition No. 20 of 2014 seeking dissolution of marriage in the Court of Civil Judge, Senior Division, Ichalkaranji on grounds of cruelty and desertion. The said Hindu Marriage Petition was dismissed with costs. Against the said order, the Respondent filed Regular Civil Appeal No. 68 of 2016

before the Additional District Judge, Ichalkaranji.

3. The Applicant has submitted that she has no independent source of income and is solely dependent on her mother, who works as a maid in different houses. The Applicant has filed the proceedings under Section 125 of the Code of Criminal Procedure, 1973 before the JMFC, Akkalkot. By an order dated 21st October, 2011 the JMFC has granted maintenance of Rs.2,500/- per month to the Applicant and Rs. 1,500/- per month for the minor 'Indra'. The Respondent challenged the said order of maintenance in the Court of Sessions Judge, Solapur by preferring Criminal Revision Application No. 18 of 2012. By an order dated 17th June, 2013, the Sessions Judge confirmed the order of the JMFC.

4. The Applicant has submitted that since the Respondent did not comply with the order of maintenance, the Applicant was required to file Execution Application No. 155 of 2011 before the JMFC, Akkalkot and a warrant was issued against the Respondent. Against the said order and warrant, the Respondent filed Criminal Application (APL) No. 870 of 2013 before this Court. In the said Application, the Respondent is directed to deposit the entire arrears of maintenance. However, on the date of the filing of the above Misc. Civil Application, an amount of Rs. 1,85,000/- remained to be paid by the Respondent to the Applicant and her daughter.

5. The Applicant has submitted that grave inconvenience and hardship would be caused to her if she is required to travel a distance of 250 kms (one way) from Solapur to Ichalkaranji to attend the Appeal proceedings before the Court of

Additional Sessions Judge, Ichalkaranji. There is no convenient mode of transport from Ichalkaranji to Solapur. Very limited bus service is available to travel from Ichalkaranji to Solapur. The Applicant is also unable to bear the travel expenses as well as boarding and lodging expenses to defend the Regular Civil Appeal No. 68 of 2016 filed by the Respondent before the Court of Ichalkaranji, since the Respondent is not paying maintenance to the Applicant and minor 'Indra' despite orders of the Court. It is therefore submitted by the Applicant that the Regular Civil Appeal No. 68 of 2016 be transferred from the Court of Additional District Judge, Ichalkaranji to the Court of District Judge, Solapur.

6. The learned Advocate appearing for the Respondent has submitted that inconvenience and hardship will be caused to the Respondent if the Regular Civil Appeal No. 68 of 2016 is transferred to the Court of District Judge, Solapur and he is required to travel all the way from Ichalkaranji to Solapur.

7. I have considered the submissions advanced on behalf of the parties.

8. The Hindu Marriage Petition No. 20 of 2014 filed by the Respondent seeking dissolution of marriage between the Applicant and the Respondent on the ground of cruelty and desertion was dismissed on 21st October, 2011 with costs. The Respondent has filed Regular Civil Appeal No. 68 of 2016 before the Court of Additional District Judge, Ichalkaranji impugning the order of dismissal dated 21st October, 2011. To reach the Court at Ichalkaranji, the Applicant is required to travel a distance of more than 250 kms. (one way). There is no regular bus service available to

the Applicant directly from Solapur to Ichalkaranji. Despite orders directing the Respondent to pay maintenance to the Applicant and her daughter aggregating to Rs.4,000/- per month, the Respondent has failed to regularly pay the same and arrears of Rs.1,85,000/- was due and payable on the date of filing of the above Misc. Civil Application. In the circumstances, I am satisfied that grave inconvenience and hardship will be caused to the Applicant if she is required to travel all the way from Solapur to Ichalkaranji to attend the Appeal proceedings before the Court of Additional Sessions Judge, Ichalkaranji on the adjourned dates. I therefore pass the following order :

- i. Regular Civil Appeal No. 68 of 2016 filed by the Respondent husband before the Court of Additional District Judge, Ichalkaranji is transferred to the Court of District Judge, Solapur.
- ii. The learned Additional District Judge, Ichalkaranji shall ensure that the papers and proceedings of the Regular Civil Appeal No. 68 of 2016 are received by the learned District Judge, Solapur on or before 23rd October, 2017.
- iii. The parties as well as the learned Additional District Judge, Ichalkaranji and the learned District Judge, Solapur to act on an authenticated copy of this order.
- iv. Parties and / or their Advocates shall appear before the District Judge, Solapur on 30th October, 2017 at 11.00 a.m. and obtain appropriate orders / directions.
- v. The District Court, Solapur shall endeavour to dispose of Regular Civil

Appeal No. 68 of 2016 within a period of six months from 30th October, 2017.

vi. The District Court, Solapur shall not grant any adjournment to the parties unless absolutely necessary. The parties too shall not seek any adjournment unless absolutely necessary.

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

(S.J.KATHAWALLA, J.)