

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

MISC.CIVIL APPLICATION (ST.)NO. 19701 OF 2017

Nand Kishore Ghan Shyamlal

...Applicant

Vs.

Priti Nand Kishore

....Respondent

*Ms. Vrushali Kabare for the Applicant.**Mr. Vikram Sutaria, instructed by Mr. Niranjan Mundargi, for the Respondent.*

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CORAM: S. J. KATHAWALLA, J.**DATE: 29th September, 2017****P.C.:**

1. By the above Miscellaneous Civil Application filed under Section 24 of the Code of Civil Procedure, 1908, the Applicant-husband seeks transfer of Divorce Proceedings being P.A. No. 328 of 2017 filed by the Respondent-wife and pending before the Family Court at Pune, to the Family Court at Bandra, Mumbai.

2. The Applicant had filed O.P. No. 268 of 2017 before the Family Court, City Civil Court, Hyderabad seeking restitution of conjugal rights. The Applicant wife therefore filed a Transfer Petition (C) No. 00917 of 2017 before the Hon'ble Supreme Court of India seeking transfer of OP No. 268 of 2017

pending on the file of the Family Court, City Civil Court, Hyderabad to the Family Court at Pune. The Applicant has now stated that he is not desirous of continuing with the said O.P. No. 268 of 2017 filed by him before the Family Court, City Civil Court at Hyderabad seeking restitution of conjugal rights and undertakes to withdraw the same. In view thereof, the advocate appearing for the Respondent wife states that the Respondent too shall withdraw Transfer Petition © No. 00917 of 2017 filed by her before the Hon'ble Supreme Court of India on the ground of the same becoming infructuous. The statements/undertakings are accepted. The only issue therefore before this Court is as to whether the Applicant-husband has made out a case for transfer of divorce petition filed by the Respondent wife before the Family Court at Pune to the Family Court at Bandra, Mumbai.

3. The Applicant has pointed out that the Respondent wife is admittedly residing at Borivli (West), Mumbai. This is clear from the divorce petition filed by her at the Family Court, Pune on 28th March, 2017 wherein in the cause title she has stated that she is a resident of A-3, Rajanigandha, S.V.P. Cross Road, Borivli (West), Mumbai-400 092. In the entire Petition it is not explained as to why the Petitioner despite admittedly residing at Mumbai has gone all the way to Pune to file the divorce petition.

4. The Applicant has further pointed out that he is a resident of Hyderabad.

The Respondent wife has filed a complaint on 15th June, 2016 against the Applicant under the Protection of Women from Domestic Violence Act in the Metropolitan Magistrate's Court at Borivli, Mumbai. It is therefore very inconvenient for the Applicant to travel from Hyderabad to Pune for attending the proceedings filed by the Respondent wife seeking divorce. He has submitted that if the divorce proceedings filed by the Respondent wife (who is admittedly a resident of Mumbai) are transferred to the Family Court at Bandra, Mumbai, he can come from Hyderabad to Mumbai and attend both the proceedings at Mumbai. In response to a query raised by the Court as to why the Respondent wife despite admittedly being a resident of Mumbai has gone all the way to Pune to file the divorce proceedings against the Applicant-husband more so when he is required and expected to attend to the proceedings filed by her against him under the Protection of women from Domestic Violence Act before the Metropolitan Magistrate's Court at Borivli, Mumbai, she has no answer. The only answer that she could think of was that in future she may settle down in Pune. Such an answer gives an impression to the Court that the said divorce proceedings are filed before the Family Court at Pune by the Respondent wife despite being a resident of Borivli, Mumbai, only to cause harassment to the Applicant-husband. Hence the following order:

- (i) P.A. No. 328 of 2017 filed by the Respondent-wife before the Family Court at Pune is transferred to the Family Court, Bandra, Mumbai.
- (ii) The Registrar, Family Court, Pune shall ensure that the papers and proceedings in P.A. No. 328 of 2017 reaches the Family Court, Bandra, Mumbai, on or before 9th November, 2017;
- (iii) The parties and/or their Advocates shall appear before the Principal Judge, Family Court, Bandra, Mumbai on 13th November, 2017 at 11.00 a.m. and obtain necessary directions.
- (iv) The Principal Judge, Family Court, Bandra, Mumbai shall endeavour to dispose of Petition being PA No. 328 of 2017 within a period of six months from 13th November, 2017.
- (v) The Principal Judge, Family Court, Bandra, Mumbai shall not grant any adjournments to the parties unless absolutely necessary. The parties too shall not apply for any adjournment unless absolutely necessary.
- (vi) All contentions of the parties are kept open.

The Misc. Civil Application is accordingly disposed off.

(S.J. KATHAWALLA, J.)