

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

MISC. CIVIL APPLICATION NO.177 OF 2015

Vijayshree @ Prajkata Umesh Gade	...	Applicant
versus		
Umesh Vijay Gade	...	Respondent

Mr. S.P.Rajepandhare i/by Mr. Ajay Joshi, for Applicant.
Mr. Girish Agrawal with Mr. Sachin Padaye, for Respondent.

CORAM: S.J. KATHAWALLA, J.

DATE: 6th JUNE, 2017

P.C.:

1. The above Civil Application is filed by the Applicant wife seeking directions to transfer Hindu Matrimonial Petition No.234 of 2014 filed by the Respondent husband and pending before the Civil Judge, Sr. Division, Karad, Dist. Satara, to the Civil Judge, Sr. Division at Pandharpur, Dist. Solapur, where the proceedings filed by the Applicant wife for restitution of conjugal rights being No.42 of 2015 is pending.

2. The Applicant in her Application has stated that she was forced to leave her matrimonial home sometime in the year 2007 with her son Parth, who is now approximately of 10 years. She and her son are staying with her old mother at Pandharpur, who is a widow and suffering from several ailments. She has no income of her own and she as well as her son are completely at the mercy of her brothers.

On the other hand, the Respondent is an Engineer who is earning Rs.40,000-45,000/- per month. He also owns two shops at the prima area at Shivaji Chowk, Umbraj, which are given on rental basis. He has agricultural land and is also getting good income therefrom. However, in the last 10 years, the Respondent husband has not paid a single rupee to the Applicant towards alimony or maintenance of the minor. He has in the year 2014, filed a Petition being No.234 of 2014 for divorce before the Civil Judge, Sr. Division, Karad, Satara.

3. The distance between Pandharpur and Karad is 200 kms. (one way). There is no adult person to take care of the Applicant's mother and her son to enable her to attend to the matter at Karad, Dist. Satara. She also has no source of income and is therefore, unable to bear the travel expenses and she has no relatives residing at Karad. She is also unable to make any arrangements if she is required to stay overnight at Karad. As against this, the Respondent is already travelling from Karad to Pandharpur to defend the Petition filed by the Applicant wife seeking restitution of conjugal rights.

4. The main submission advanced on behalf of the Respondent is that he had filed a divorce Petition before the Court at Karad, prior to the Applicant filing a Petition seeking restitution of conjugal rights before the Court at Pandharpur.

5. From the aforestated facts, it is clear that the Applicant is residing with her mother who is a widow and suffering from various ailments. The Applicant is also

required to look after her minor son. Apart from the fact that the Respondent has not paid a single rupee towards alimony to the Applicant or for maintenance of their minor son in the last 10 years, because of which she is facing grave financial difficulties; it is impossible for her to travel 400 kms. (to and fro) to attend the matter at Karad; since she has no relative at Karad, and she cannot make any arrangements for an overnight stay if required. As against this, the Respondent is already travelling from Karad to Pandharpur to defend the Petition filed by the Applicant seeking restitution of conjugal rights. That the Respondent has filed the divorce Petition prior to the Applicant's Petition, would make no difference in view of the facts involved in the present case. In the circumstances, the Misc. Civil Application deserves to be allowed as prayed. In view thereof, the following order is passed :

(i) The H.M.P. No.234 of 2014 pending before the Civil Judge, Sr. Division, Karad, Dist. Satara is transferred to Civil Judge, Sr. Division at Pandharpur, Dist. Solapur where the H.M.P. No.42 of 2015 for restitution of conjugal right is pending.

4. The above Misc. Civil Application is accordingly disposed of.

(S.J.KATHAWALLA,J.)