

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

MISC. CIVIL APPLICATION NO.231 OF 2016

Sonu Rajiv Limje	...	Applicant
versus		
Rajiv Chandrakant Limje	...	Respondent

Mr. Sachin Punde, for Applicant.
Mr. Pranav Bhoite, for Respondent.

CORAM: S.J. KATHAWALLA, J.

DATE: 13th JUNE, 2017

P.C.:

1. By consent of the parties, the above Misc. Civil Application is taken up for hearing and final disposal.
2. The Applicant wife has filed the present Application seeking transfer of Marriage Petition No.262 of 2015 from the Court of Civil Judge, Sr. Division Baramati, District Pune to the Court of Civil Judge, Sr. Division, Kalyan, Dist. Thane. The marriage between the parties took place on 12th June, 2015 and within a period of two months, the Applicant wife returned back to her parental house at Ulhasnagar i.e. on 19-08-2015. According to the Applicant, she was driven out of the matrimonial home and according to the Respondent, she is guilty of desertion.
3. The Respondent has filed Petition No.262 of 2015 for restitution of conjugal rights before the Civil Judge, Sr. Division at Baramati and the Applicant has filed

proceedings against the Respondent under the Domestic Violence Act before the Court at Ulhasnagar, which is being defended by the Respondent.

4. The Respondent is working as Peon with the Panchayat Samiti at Baramati. Admittedly, his salary is Rs.25,000/- per month. However, his contention is that he is only receiving Rs. 5,934/- per month since he had taken a loan at the time of his marriage. In view thereof, the Applicant was granted interim maintenance of Rs. 2,000/- only by the Court at Baramati.

5. It is submitted by the Applicant that since she is unemployed, she is facing grave financial difficulties. She has submitted that apart from the financial difficulties faced by her, it is very difficult for her to attend the proceedings at Baramati filed by the Respondent because she is required to travel 500 kms. (to and fro), there is no direct train available from Ulhasnagar to Baramati she has to first take a train and then travel by ST Bus. Since she is not having any friends or relatives residing at Baramati, she is also unable to arrange for an overnight stay at Baramati, if required. There is no member in her family, who can accompany her to Baramati. As against this, the Respondent is already attending proceedings filed by the Applicant under the Domestic Violence Act at Ulhasnagar and therefore he can also attend the Petition filed by him seeking restitution of the conjugal rights if the same is transferred to Kalyan, District Thane.

6. It is submitted on behalf of the Respondent that since the Applicant is an

educated lady, she can travel from Ullhasnagar to Baramati and that he is not getting leave from his employers.

7. Having heard the learned Advocates appearing for the parties and having perused the pleadings, I am inclined to allow the above Application for transfer in light of well settled legal position that the convenience of the wife must be duly considered while considering an Application under Section 24 of the Code of Civil Procedure, 1908. This has been reiterated in a catena of decisions of the Hon'ble Supreme Court.

8. The Applicant is only 27 years old lady, who though educated is unemployed. She is receiving an amount of Rs. 2,000/- per month towards interim maintenance on the ground that the Respondent whose salary is Rs.25,000/- per month, is at present receiving only Rs.5,934/- per month from his employers since he had taken a loan at the time of his marriage. Apart from it being very difficult to sustain herself in the paltry sum of Rs. 2,000/-, it would certainly be very inconvenient for her to travel a distance of 500 kms. (to and fro) from Ulhasnagar to Baramati to defend the Petition filed by the Respondent seeking restitution of conjugal rights. There is no direct train from Ulhasnagar to Baramati and therefore she has to first take a train and then travel by ST Bus. She is not having any friends or relatives residing at Baramati and she is therefore also unable to even arrange an overnight stay at Baramati, if required. The fact that she is educated do not come to her aid in

reducing the aforesaid inconvenience being caused to her. As far as the issue of leave is concerned, the Respondent is already defending the criminal case filed by the Applicant under the Domestic Violence Act at Ulhasnagar. He can similarly pursue his Petition seeking restitution of conjugal rights before the Civil Judge, Sr. Division at Kalyan.

9. In the light of the above, the Application for transfer is required to be allowed and I therefore pass the following order :

(i) The learned Civil Judge, Senior Division, Baramati, District Pune is directed to transmit the papers and proceedings of the Marriage Petition No.262 of 2015 filed by the Respondent to the Court of Civil Judge, Senior Division, Kalyan, Dist. Thane.

(ii) Parties as well as the learned Civil Judge, Senior Division, Baramati, District Pune and the learned Civil Judge, Senior Division, Kalyan, Dist. Thane to act on an authenticated copy of this order.

(iii) Both the parties are directed to appear before the learned Civil Judge, Senior Division, Kalyan, District Thane by themselves and / or through their Advocates on 22nd June, 2017 at 11.00 a.m. and obtain appropriate orders / directions.

(iv) The above Misc. Civil Application is allowed in the aforesaid terms with no order as to costs.

(S.J.KATHAWALLA, J.)