

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
MISC. CIVIL APPLICATION NO. 255 OF 2017

Ronak Bhavesh Kansara ... Applicant

Versus

Bhavesh Bhupendra Kansara ... Respondent

Mr. G.T. Kanchanpurkar for the Applicant.

Ms. Kalpana Trivedi for the Respondent.

Ms. Bindu Gopal, Inspector, Office of Commissioner of I.T. Mumbai, present.

Ms. Ronak Bhavesh Kansara - Applicant, present in person.

Mr. Bhavesh Bhupendra Kansara - Respondent, present in person.

CORAM : S.J. KATHAWALLA, J.
DATED : 29TH SEPTEMBER, 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 Petition No. A-742 of 2014 filed by the Respondent husband from the Family Court, Bandra, Mumbai to the Court of Civil Judge, Senior Division, Palghar.

2. The Applicant has submitted that the marriage between her and the Respondent was solemnized on 19th February, 2000. According to the Applicant, the Respondent was working in a Company named 'Rosy Blue' (dealing in the diamond business) at Opera House, Mumbai, and had illicit relations with a lady in his office. According to the Applicant, when the Respondent visited Srilanka for business purpose, he developed intimate relations with another lady.

3. According to the Applicant, the Respondent was regularly going abroad and would develop relations with different women at the places he visited. Taking advantage of the fact that the relations between the Applicant and the Respondent were strained, the Respondent's uncle on several occasions tried to outrage the modesty of the Applicant. However, when she would try to talk about this to the Respondent, he and his family members threatened to drive her out of the matrimonial home. Ultimately on 4th April, 2015, the Applicant was forcibly driven out from her matrimonial home by the Respondent and his family members. The Applicant thereafter came to the house of her mother and later shifted to the house of her maternal uncle at Palghar.

4. The Applicant has stated that she has lodged a criminal complaint with the Oshiwara Police Station, Mumbai bearing FIR No. 24 of 2015, which is pending before the Metropolitan Magistrate, Railway Mobile Court, Andheri, Mumbai. She has also filed another criminal complaint bearing No. 12 of 2016 under the Protection of Women from Domestic Violence Act, 2005 in the Court of JMFC at Palghar. The Respondent is attending the said matter at Palghar.

5. According to the Applicant, the Respondent thereafter filed Marriage Petition No. A-742-2017 before the Family Court, Bandra, Mumbai, seeking dissolution of marriage between the Applicant and the Respondent. The Applicant has submitted that the distance between Palghar and Bandra, Mumbai is 100 kms. (one way). She has never travelled such a long distance alone. There is no one to

accompany her to the Family Court at Bandra, Mumbai. She is also not gainfully employed and is staying at the mercy of her maternal uncle at Palghar. She is also required to take care of her mother, who is not keeping good health. She has therefore submitted that grave inconvenience and hardship will be caused to her if she is required to attend to the divorce proceedings filed by the Respondent before the Family Court, Bandra, Mumbai on every adjourned date. As against this, the Respondent is already attending the criminal complaint filed by the Applicant at Palghar.

6. The Respondent initially appeared before this Court in person and thereafter through an Advocate. He admitted before the Court that until last year he was regularly going abroad. On a query raised by the Court as to why he was frequently going abroad, he informed the Court that he was working with a firm of diamond merchant and also because he is a traveller. On the next occasion, when the Respondent came along with his Advocate, the Court was informed that he has a travel agency business and for that reason he was regularly going abroad. He also admitted that he is not paying any maintenance to the Applicant and the reason given for the same, is that he has no income. Though the income tax returns submitted by him make interesting reading, I am not commenting on the same since it may prejudice him in the divorce petition filed by him. In response to a query raised by the Court that, if he is jobless and unable to maintain his wife, why he is opposing transfer of proceedings filed by him from the Family Court at Bandra to the Court of Civil

Judge, Senior Division, Palghar thereby compelling his wife to travel all the way from Palghar to Bandra to attend the proceedings filed by him, which would cause grave inconvenience and hardship to her, more so since she is financially completely dependent on her maternal uncle, the Respondent has no answer to offer. In the light of the above facts, I am satisfied that grave inconvenience and hardship will be caused to the Applicant if she is required to travel all the way from Palghar to attend to the divorce proceedings filed by the Respondent before the Family Court, Bandra, Mumbai. The Applicant will not be inconvenienced since he is presently free and not doing any business job, he has not paid a single rupee to the Applicant since their separation, is admittedly attending criminal proceedings filed by her at Palghar and he has also admitted that he loves travelling. I therefore pass the following Order :

- i. Petition No. A-742 of 2017 filed by the Respondent husband before the Family Court, Bandra, is transferred to the Court of Civil Judge, Senior Division, Palghar.
- ii. The Learned Family Court, Bandra shall ensure that the papers and proceedings of the Marriage Petition No. A-742 of 2017 are received by the Learned Civil Judge, Senior Division, Palghar on or before 10th November, 2017.
- iii. Parties and / or their Advocates shall appear before the Civil Judge, Senior Division, Palghar on 13th November, 2017 at 11.00 a.m. and obtain appropriate orders / directions.
- iv. The Civil Judge, Senior Division, Palghar shall endeavor to dispose off

Petition No. A-743 of 2017 within a period of six months from 13th November, 2017 without being influenced by any of the observations made in this Order.

v. The Civil Judge Senior Division, Palghar shall not grant any adjournment to the parties unless absolutely necessary. The parties too shall not seek any adjournment unless absolutely necessary.

vi. The parties as well as the learned Principal Judge, Family Court, Bandra and the learned Civil Judge, Senior Division, Palghar, to act on an authenticated copy of this Order.

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

(S.J.KATHAWALLA, J.)