

Sasoon Hospital, Pune stating that she is suffering from Kyphoscoliosis, her trunk is affected and her physical impairment/disability is evaluated at 63% and her condition is permanent, non-progressive and not likely to improve.

3. According to the Applicant, despite her above condition she had taken up a job as a teacher at Pune. Though according to the rules she was entitled to a salary of Rs.44,000/-, she was paid only Rs.18,000/- when she worked as a teacher and Rs.23,000/- when she worked as an acting Principal of the School. However, her physical condition started deteriorating and prior to April 2017 she was on leave for an entire year and ultimately out of sheer helplessness she tendered her resignation in April 2017 and is now home bound and has no income. She has informed the court that her minor son is also facing certain medical problems and she is extremely worried about her future and also that of her minor son. The Applicant has also informed the Court that in the year 2013 she filed a Petition under Section 125 of the Code of Criminal Procedure seeking maintenance from the Respondent. In the said Petition, the Family Court at Pune had directed the Respondent to pay an amount of Rs.5,000/- towards the maintenance of the Applicant and her minor child. The Respondent by an Appeal filed before this Court impugned the order of maintenance and the Learned Single Judge of this Court has admitted the Appeal and stayed the Order of maintenance.

4. The Respondent had also filed a Petition before the Learned Civil Judge Senior Division at Barshi seeking restitution of conjugal rights which was dismissed on

21.08.2015.

5. The Applicant-wife has submitted that the Respondent is an able bodied man, but since the year 2008 is working as a teacher at Fulwadi on a salary of Rs.2000/-. He is not willing to look out for a job where he can earn much more than his present salary on the pretext that one day his school will receive Government aid and thereafter his salary will increase.

6. The Applicant-wife has further submitted that the distance between Barshi and Pune is about 400kms. (to and fro). In view of her failing health, it is impossible for her to travel this distance. Even otherwise, grave inconvenience and hardship will be caused to her to travel this long distance with no relatives or friends at Barshi to take care of her and her five year old child. Again since she has given up her job, she has no income and the order of maintenance passed in her favour by the Family Court, Pune is also stayed by this Court.

7. An attempt was made by this Court to assist the parties to arrive at an amicable settlement by calling both of them with their respective Advocates in chamber. However, I found that reconciliation is not possible.

8. As stated above, the applicant is suffering from physical disability which as per the Government Guidelines is evaluated as 63%. The certificate issued by the Sassoon Hospital at Pune has certified that her condition is permanent, non-progressive and not likely to improve. Despite such serious health condition, she was working as a teacher, but because of her failing health, prior to April 2017 she took

leave for a year and finally resigned in April 2017. She is now having no income to maintain herself and her son who too is facing certain medical problems. The Family Court at Pune had directed the Respondent to pay an amount of Rs.5,000/- to the Applicant towards her maintenance and that of her minor child. However, the Respondent filed an Appeal before this Court and the said order of maintenance is stayed. Therefore, apart from her serious medical condition, it is also not possible for her to travel from Pune to Barshi leaving her minor son at Pune in the absence of any income. When this Court enquired from the Respondent why an able bodied man like him should not look out for a job which will give him a return of more than Rs.2000/- per month, he stated that his salary will rise after the school in which he is teaching receives Government aid. When this Court further enquired as to how his wife and minor son should survive till his salary is increased, he has no answer to offer. However, he now states that he has no objection if the above Application is allowed.

9. In the circumstances, I pass the following Order :-

- (a) The Marriage Petition being No.A-94 of 2016 filed by the Respondent-husband is directed to be transferred from the Court of Learned Civil Judge, Senior Division, Barshi to the Family Court at Pune.
- (b) The Court of Learned Civil Judge, Senior Division, Barshi is directed to transmit the papers and proceedings of Marriage Petition No.A-94 of 2016 to the Family Court at Pune.
- (c) The parties as well as the Learned Civil Judge, Senior Division, Barshi and

the Family Court at Pune to act on an authenticated copy of this Order ;

(d) The parties and/or their Advocates shall appear before the Family Court, Pune on 20th July 2017 at 11.00 a.m. and obtain appropriate orders.

10. Miscellaneous Civil Application is allowed in the aforesaid terms, with no order as to costs.

(S.J.KATHAWALLA, J.)