

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
MISCELLANEOUS CIVIL APPLICATION NO. 275 OF 2016

Mrs. Mayuri @ Asmita Srinivas Pawar ... Applicant
Versus
Mr. Srinivas Ashok Pawar ... Respondent
Mr. R.P. Gaikwad for the Applicant.
None for the Respondent.

CORAM : S.J. KATHAWALLA, J.
DATED : 6TH JULY, 2017

P.C.:

1. By the above Miscellaneous Civil Application filed under Section 24 of the Code of Civil Procedure, 1908, the Applicant-wife seeks transfer of Marriage Petition No.535 of 2015 filed by the Respondent-husband seeking divorce pending before the Civil Judge Senior Division at Sangli to the Court of Civil Judge Senior Division at Thane.
2. According to the Applicant, marriage between her and the Respondent was solemnized on 04.02.2014. Since disputes arose between the Applicant and the Respondent, the Applicant within one year of marriage returned to her parental home at Bhayander. Thereafter, the Respondent-husband filed Petition No.535 of 2015 before the Civil Judge Senior Division at Sangli seeking dissolution of marriage between the Applicant and the Respondent.
3. The Applicant has filed Application bearing No.149 of 2016 before the Judicial Magistrate First Class at Thane against the Respondent under the Protection

of Women from Domestic Violence Act, 2005 ('Domestic Violence Act') which is pending.

4. According to the Applicant, the distance between her residence and the Court at Sangli is 407 kms. (one way). According to her, not only is it inconvenient for her to travel about 814 kms. (to and fro) between Bhayander and the Court at Sangli on every date of hearing, but since she is not receiving any maintenance from the Respondent, it is also financially impossible for her to undertake such a long journey and incur costs towards travelling as well as lodging and boarding expenses. She has submitted that as against this, the Respondent owns horticultural land admeasuring about 7 acres which is situated at Chinchani, Taluka - Tasgaon, District - Sangli and has an income of Rs.70,000/- per month from the said land. In addition, the Respondent runs a grocery shop and a flour mill and he is earning around Rs.50 to 60 thousand per month from the said business. It is submitted that even otherwise, the Respondent is required to come to Sangli to defend the proceedings filed by her against the Respondent under the Domestic Violence Act being Application No.149 of 2016.

5. Despite service, the Respondent has neither filed his Affidavit-in-Reply nor has he appeared before the Court to defend the above Application. The Respondent was earlier represented by Advocate P.P. Kakade. She has produced before this Court a letter dated 21.06.2017 addressed by her to the Respondent calling upon him to give instructions to her in the matter. However, the Respondent has not come forward to

give any instructions in the matter. In view thereof, what is stated by the Applicant in her application has remained uncontroverted. There is no reason why this Court should not accept the submissions made by the Applicant in her application. In the circumstances, I pass the following Order :

- (a) The Marriage Petition No. 535 of 2015 filed by the Respondent-husband is directed to be transferred from the Court of Civil Judge Senior Division at Sangli to the Court of Civil Judge Senior Division at Thane;
- (b) The Civil Judge Senior Division at Sangli is directed to transmit the papers and proceedings of Marriage Petition No. 535 of 2015 to the Court of Civil Judge Senior Division at Thane;
- (c) A copy of this Order shall be served on the Respondent by Speed Post/Registered Post A.D. by the Court Office;
- (d) The parties as well as the Civil Judge Senior Division at Sangli and the Court of Civil Judge Senior Division at Thane to act on an authenticated copy of this Order ;
- (e) The parties and/or their Advocates shall appear before the Court of Civil Judge Senior Division at Thane on 21st August, 2017 at 11.00 a.m. and obtain appropriate orders/directions.

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

(S.J.KATHAWALLA, J.)