

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

**MISCELLANEOUS CIVIL APPLICATION (ST) NO. 26647 OF 2017**

Mrs. Harshada Sanket Gangadhare      ...      Applicant

Versus

Mr. Sanket Prabhakar Gangadhare      ...      Respondent

Mr. Prathamesh Bhargude for the Applicant.  
None for the Respondent.

**CORAM : S.J. KATHAWALLA, J.**

**DATED : 28<sup>th</sup> SEPTEMEBR, 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. 771 of 2016 filed by the Respondent-husband pending before the Court of Civil Judge, Senior Division, Thane to the Court of Civil Judge, Senior Division, Pune.
2. The marriage between the Applicant and the Respondent was solemnized on 17.06.2014. On 14th July, 2015, the Applicant and the Respondent were blessed with a son who is now two years old. According to the Applicant, in November 2015, she was thrown out of the matrimonial home, because of which she started residing with her parents. On 12th January, 2017 she filed a Marriage Petition No.101 of 2017 seeking restitution of conjugal rights before the Court of Civil Judge, Senior Division, Pune. In the said Petition, she has also applied for maintenance. In the course of proceedings, she was informed that the Respondent has filed Divorce Petition No.771

of 2016 on 08.12.2016 before the Court of Civil Judge, Senior Division, Thane.

3. The Applicant has submitted that since she is required to take care of her child who is two years old, it is difficult for her to travel all the way from Pune to Thane to defend the divorce proceedings filed by the Respondent. Since she is residing at Nigdi, Pune, she is required to first travel a distance of 21kms. to come to Pune Railway Station, and thereafter to Thane. Therefore, to reach the Court at Thane, she is required to travel a distance of 152.69 kms. (one way). The father of the Applicant is suffering from aggravated knee pain and is suggested knee replacement surgery. The mother of the Applicant is suffering from severe Asthama and since the year 2013 she is undergoing treatment for the same. The Applicant has submitted the medical records/reports of her parents alongwith the Application. The Applicant has further submitted that the petition seeking restitution of conjugal rights is filed by her before the Court of Civil Judge, Senior Division, Pune and both the Petitions will have to be heard by one court. She has submitted that apart from grave inconvenience and hardship that she would face to travel from Pune to Thane alongwith her two years old child, she is also unable to bear the travel expenses since she has no independent income and is completely dependent on her parents.

4. Though the Applicant was served with the copy of the above Miscellaneous Civil Application, and is repeatedly given opportunities to remain present in Court, he has failed to do so. He has also not filed his Affidavit in reply to the above Application. In the absence of any defence or contest by the Respondent, the averments contained

in the Misc. Civil Application have remained uncontroverted. I see no reason why the statements / submissions made by the Applicant in the above Misc. Civil Application should not be accepted. In the circumstances, I am satisfied that grave inconvenience and hardship will be caused to the Applicant, if the relief sought in the above Misc. Civil Application is not granted. On the other hand, no hardship/inconvenience will be caused to the Respondent who is already attending / shall be attending the proceedings filed by the Applicant before the Court at Pune. In the circumstances, I pass the following order :

- (a) The Hindu Marriage Petition being No. 771 of 2016 filed by the Respondent-husband is directed to be transferred from the Court of Civil Judge, Senior Division, Thane to the Court of Civil Judge, Senior Division, Pune.
- (b) The Registrar, Court of Civil Judge, Senior Division, Thane shall ensure that the papers and proceedings of Hindu Marriage Petition No. 771 of 2016 reaches the Court of Civil Judge, Senior Division, Pune, on or before 10<sup>th</sup> October, 2017.
- (c) The parties and/or their Advocates shall appear before the Court of Civil Judge, Senior Division, Pune on 12<sup>th</sup> October, 2017 at 11.00 a.m. and obtain appropriate orders.
- (d) The Court of Civil Judge, Senior Division, Pune shall endeavour to hear the Hindu Marriage Petition No. 771 of 2016 alongwith Marriage Petition No.101 of 2017 and shall dispose off the same within a period of six months from the date of this Order.

- (e) The parties shall not seek adjournment/s unless absolutely necessary. The Court of Civil Judge, Senior Division, Pune shall also not grant adjournment/s to either side unless absolutely necessary.
  - (f) The parties as well as the Court of Civil Judge, Senior Division, Thane and the Court of Civil Judge, Senior Division, Pune to act on an authenticated copy of this Order.
  - (g) All contentions of the parties are kept open.
  - (h) The Advocate for the Applicant shall serve a copy of this order on the Respondent by Speed Post/Registered Post A.D. and/or by hand-delivery.
5. The above Miscellaneous Civil Application is accordingly disposed off.

**( S.J.KATHAWALLA, J. )**