

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

MISC. CIVIL APPLICATION NO. 270 OF 2015

Sau. Madhumati Shevant Kamble

... Applicant

vs.

Shevant Yashwant Kamble

...Respondent

Ms. Kshitija Sarangi, instructed by Bhagyashree Managale, for the Applicant.

None for the Respondent.

Applicant present in Court.

CORAM: S.J. KATHAWALLA, J.

DATE: 28th August, 2017

P.C.

1. By the above Misc. Civil Application filed under Section 24 of the Code of Civil Procedure, the Applicant-wife seeks transfer of H.M.P. No. 535 of 2015 filed by the Respondent-husband seeking dissolution of marriage between the Applicant and the Respondent-husband and pending before the Civil Judge, Senior Division, Kalyan, to the Family Court, Solapur.

2. The marriage between the Applicant and the Respondent was solemnised on 30th June, 2009. After the marriage, a child (daughter) named Anushka was born on 21st April, 2010. Disputes arose between the parties in August, 2010 because of which the Applicant-wife along with her minor daughter started residing with her parents at Solapur. The Respondent-husband filed restitution

application bearing H.M.P. No. 310 of 2010 before the Civil Judge, Senior Division, Solapur on 20th September, 2010. The Respondent filed an amendment application to convert the restitution application into a divorce petition on 12th January, 2012. During this period, the Family Court was established at Solapur and the restitution proceedings were transferred to the Family Court, Solapur and H.M.P. No. 310 of 2010 and renumbered as A-558/2012.

3. During the pendency of the matter, the parties settled their dispute and filed a compromise deed dated 18th March, 2013. A decree was accordingly drawn by the Family Court, Solapur on 19th March 2013.

4. Thereafter disputes again arose between the parties and on 8th June, 2015, the Respondent-husband filed divorce petition before the Civil Judge, Senior Division, Kalyan, bearing HMP No. 535 of 2015. The Applicant has therefore filed the present application seeking transfer as set out hereinabove.

5. The Respondent has not appeared before this Court despite service. The Applicant has submitted that she and her minor daughter are at present residing at Solapur with her parents. She does not have any source of income and is completely dependent on her father's limited income. The Respondent has till date not paid a single rupee to the Applicant towards her maintenance or towards the maintenance of their minor child. Apart from the above, it is very difficult for the Applicant to travel from Solapur to Kalyan i.e. a distance of 800

kilometres to and fro. The Applicant is also unable to bear the travel expenses as well as the boarding and lodging expenses of herself, her minor daughter and an escort if she has to attend the Court of the Learned Civil Judge, Senior Division at Kalyan on the adjourned dates. It is therefore submitted by the Applicant that grave inconvenience and hardship will be caused to her, if the transfer of proceedings sought in the above Application is not granted. As stated above, the Respondent has not appeared before this Court despite being served. In view of the above, all that is stated in the application has remained uncontroverted. I see no reason why the same should not be accepted. Therefore, in my view the Applicant has made out a case for transferring the Matrimonial Petition being H.M.P. No. 535 of 2015 from the Court of Civil Judge, Senior Division, Kalyan, to the Family Court, Solapur. Hence the following order:

- (i) Divorce Petition being H.M.P. No. 535 of 2015 filed by the Respondent-husband before the Civil Judge, Senior Division, Kalyan is transferred to the Family Court, Solapur. The papers and proceedings shall be transferred by the Superintendent of the Court of Civil Judge, Senior Division, Kalyan to the Family Court, Solapur, on or before 11th September, 2017.
- (ii) The parties and/or their Advocates shall appear before the Family Court, Solapur on 14th September, 2017 and obtain necessary directions.
- (iii) The Learned Principal Judge, Family Court, Solapur, shall decide

Divorce Petition being H.M.P. No. 535 of 2015 within a period of six months from 11th September, 2017.

(iv) The parties shall not seek any adjournments unless absolutely necessary. The Learned Judge too shall not grant any adjournments unless absolutely necessary.

(v) All the contentions of the parties are kept open.

All concerned to act on an ordinary copy of this order duly authenticated by the Personal Assistant of this Court.

The above Miscellaneous Civil Application is accordingly disposed off.

(S.J. KATHAWALLA, J.)