

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
MISC. CIVIL APPLICATION NO. 279 OF 2016

Mrs. Priyanka Vishal Bansode ... Applicant
Versus
Mr. Vishal Hari Bansode ... Respondent

Mr. D.P. Adasule for the Applicant.
Ms. Kirti Purohit for the Respondent.
Mrs. Priyanka Vishal Bansode - Applicant, present in person.
Mr. Vishal Hari Bansode - Respondent, present in person.

CORAM : S.J. KATHAWALLA, J.
DATED : 6TH SEPTEMBER, 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.A-8 of 2016 filed by the Respondent-husband pending before the Family Court, Thane to the Family Court, Nashik.

2. It is submitted on behalf of the Applicant that the marriage between the parties was solemnized on 28th May, 2015. In August 2015, the Respondent went to Germany without informing the Applicant. On 29th August, 2015, the family members of the Respondent forced the Applicant to leave the matrimonial home and informed her that she will be taken back after 15 days or after arrival of her husband. Though attempts were made by the Applicant to return to the matrimonial home on

22nd October, 2015 and 11th November, 2015, she was not allowed to enter the matrimonial home. She was also not informed when the Respondent would return from Germany. On 1st December, 2015, the Applicant once again made an attempt to enter the matrimonial home, however, she was not allowed to do so on the ground that the Respondent had not returned from Germany.

3. The Applicant thereafter filed the following proceedings against the Respondent :

- a. Complaint with the Upanagar Police Station, Nashik under Section 498A, 406, etc. of the Indian Penal Code, 1860.
- b. Criminal Application No. 176 of 2016, before the JMFC, Nashik under Sections 12, 17, 19, 20/3, 21, 22 and 23 of the Protection of Women from Domestic Violence Act, 2005 against the Respondent and others.
- c. E-Petition No. 57 of 2016, before the JMFC, Nashik Road under Section 125(1) of the Criminal Procedure Code, 1973.
- d. A-Petition No. 167 of 2016 filed before the Family Court, Nashik under Section 9 of the Hindu Marriage Act, 1955.

4. The Applicant has submitted that the Respondent is travelling from Thane to Nashik to attend the aforesaid proceedings including the Petition filed by the Applicant seeking restitution of conjugal rights. However, only with a view to cause inconvenience and hardship to her, he has filed proceedings under Section 12 of the

Hindu Marriage Act, 1955 before the Family Court, Thane. The Applicant has submitted that it would be very difficult for her to travel all the way from Nashik to attend the matrimonial proceedings filed by the Respondent at Thane. There is no member in her family who can accompany her from Nashik to Thane on every date of hearing. She does not have any independent income. She is completely dependent on her parents for her survival, she is also unable to bear the travel expenses as well as boarding and lodging expenses for herself and / or any other person, who can accompany her from Nashik to Thane on every adjourned date.

5. Since the Applicant was willing for a reconciliation, this Court made an attempt to assist the parties in arriving at an amicable settlement and start their lives afresh with each other. However, the same was not possible. I have therefore, proceeded to hear the above Application.

6. Though, the Respondent has submitted that the above Application should not be allowed and that it will be inconvenient for him to travel from Thane to Nashik, from the aforesaid facts, I am satisfied that grave inconvenience and hardship will be caused to the Applicant if she is required to travel from Nashik to Thane on every adjourned date. The father of the Applicant has retired from service and is unable to travel due to his old age. She has therefore no one in her family, who can accompany her all the way from Nashik to Thane on every adjourned date. Even otherwise, till date she is not receiving any maintenance from the Respondent. She is financially dependent on her parents and is unable to bear the travel as well as

boarding and lodging expenses. She has already filed against the Respondent Criminal Application No. 176 of 2016 under the Protection of Women from Domestic Violence Act, 2005, E-Petition No. 57 of 2016 under Section 25(1) of Criminal Procedure Code, 1973 before the Judicial Magistrate, First Class, Nashik and A-Petition No. 167 of 2016 before the Family Court, Nashik under Section 9 of the Hindu Marriage Act, 1955. The Respondent is attending and / or shall be attending the said proceedings at Nashik. It will also be in the interest of the parties if the Petition filed by the Applicant seeking restitution of the conjugal rights and the Petition filed by the Respondent seeking annulment of marriage under the Hindu Marriage Act, 1955 is heard by the same Court. In view thereof, following order is passed.

- (a) The Marriage Petition being No. A-8 of 2016 filed by the Respondent-husband is directed to be transferred from the Family Court, Thane to Family Court, Nashik.
- (b) The Principal Judge, Family Court, Thane shall ensure that the papers and proceedings of Marriage Petition No. A-8 of 2016 reaches the Family Court, Nashik on or before 3rd October, 2017.
- (c) The parties and/or their Advocates shall appear before the Family Court, Nashik on 5th October, 2017 at 11.00 a.m. and obtain appropriate orders.
- (d) The Family Court, Nashik shall endeavour to dispose of Marriage Petition No. A-8 of 2016 within a period of six months from the date of this order.

(e) The Family Court, Nashik shall not grant any adjournment to the parties unless absolutely necessary. The parties too shall not seek any adjournment unless absolutely necessary.

(f) The parties as well as the Family Court, Nashik, and Family Court, Thane to act on an authenticated copy of this Order

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

(S.J.KATHAWALLA,J.)