

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****MISC. CIVIL APPLICATION NO. 282 OF 2016**

Mrs. Shraddha Mohit Barshikar ... Applicant

Versus

Mr. Mohit Bapusaheb Barshikar ... Respondent

Mr. Rajesh More for the Applicant.

Mr. Prashant Patil for the Respondent.

CORAM : S.J. KATHAWALLA, J.

DATED : 9TH JUNE, 2017

P.C.:

1. The above Misc.Civil Application is filed by the Applicant Wife under Section 24 of the Code of Civil Procedure, 1908 for transfer of Marriage Petition No. 233 of 2015 filed by the Respondent Husband seeking divorce, pending before the Civil Judge, Senior Division, Satara to the Civil Judge, Senior Division at Pune. The Application is by consent taken up for hearing and final disposal.

2. It is clarified that since the Family Court is established at Pune and the Applicant is residing at Hadapsar i.e. within the municipal limits, if at all this Court decides to allow the above Application, the Marriage Petition filed by the Respondent will have to be transferred to the Family Court at Pune and not before the Civil Judge, Senior Division, Pune.

3. The marriage between the Applicant and the Respondent was solemnized

on 7th December, 2008 at Urali Devachi, Taluka Haveli, District Pune. From the said wedlock, the parties have twins born on 22nd July, 2011, who are now six years old. After the marriage, the Applicant started residing with the Respondent and his parents at Phaltan, District Satara. Since disputes arose between the parties, they started residing separately on and from 20th August, 2011. The parties thereafter entered into a compromise on 19th January, 2015 but again separated within four months. On 9th June, 2015, the Respondent filed Marriage Petition No. 233 of 2015 seeking dissolution of marriage before the learned Civil Judge, Senior Division, Satara. The Applicant has filed her Written Statement to the said Marriage Petition. In the said proceedings, the Applicant also claimed interim maintenance of Rs.10,000/- per month. However, she was granted interim maintenance of Rs.500/- per month by an order dated 16th July, 2016. According to the Applicant, the Respondent challenged the said order in this Court.

4. According to the Applicant, the financial condition of the Respondent is very sound and he has two shops situated at Laxminagar, Phaltan. It is submitted on behalf of the Applicant that it is very difficult for her to travel to Satara from Pune as she is jobless and her two minor children need her continuous attention. The financial condition of the Applicant's parents is also not sound. Her father is the sole earning member in the family. She is also unable to incur expenses for attending the divorce Petition filed by the Respondent at Satara. She has no relatives and / or friends at Satara with whom she can stay overnight in Satara. As against this, the

Respondent can travel from Satara to Pune to attend the proceedings. The relatives of the Respondent are permanently residing at Pune.

5. The Respondent has filed his Affidavit in Reply. He has set out his grievances against the Applicant. He has not asserted that inconvenience will be caused to him if his divorce Petition is transferred to the Court at Pune. It is not his case that the Applicant is having a job at present and / or is having any other independent income apart from an amount of Rs.500/- per month paid by him to her.

6. From the aforestated facts, it is clear that the Applicant is residing at Pune, with her parents and two minor children (six years old). It will cause grave inconvenience to the Applicant if she has to attend the divorce proceedings at Satara as her two minor children require her constant attention, and also more particularly since she has no relatives and / or friends at Satara, who can provide her with an overnight accommodation, if required in Satara. As against this, the Respondent is self employed, has not made out any case of inconvenience being caused to him if the Marriage Petition is transferred and who has also not denied the fact that he has relatives at Pune at whose place he can arrange his overnight stay, if required. In the circumstances, I pass the following order :

i. The learned Civil Judge, Senior Division, Satara is directed to transmit the papers and proceedings of Marriage Petition No. 233 of 2015 to the Family Court at Pune.

ii. The parties as well as the learned Civil Judge, Senior Division, Satara and

the Principal Judge, Family Court at Pune to act on an authenticated copy of this order.

iii. Both the parties shall appear before the Family Court at Pune on 14th July, 2017 at 11.00 a.m. and obtain appropriate orders.

iv. The above Misc. Civil Application is allowed in the aforesaid terms, with no order as to costs.

(S.J.KATHAWALLA, J.)