

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

MISC. CIVIL APPLICATION (ST) NO. 27668 OF 2015

Sou. Swati Ajay Pawar

... Applicant

Versus

Shri Ajay Prakash Pawar

... Respondent

Mr. Sachin Chandan for the Applicant.

None for the Respondent.

CORAM : S.J. KATHAWALLA, J.

DATED : 27TH SEPTEMBER, 2017

P.C.:

1. By the above Misc. Civil Application filed under Section 24 of the Code of Civil Procedure, 1908, the Applicant wife seeks transfer of Hindu Marriage Petition No. 47 of 2015 filed by the Respondent husband and pending before the Court of Civil Judge, Senior Division, Vasai, District Palghar to the Court of Civil Judge, Senior Division, Akola, Dist. Akola.

2. The Applicant has stated that the marriage between her and the Respondent was solemnized on 30th November, 2012. The parties were blessed with a female child 'Darshna' born on 19th September, 2013. Since disputes arose between the parties, they started residing separately on and from 28th October, 2014. The Applicant has submitted that the distance between Vasai and Akola is more than 660 Kms.(one way). She is required to look after her minor child (Darshna), who is now four years old. If she is required to travel all the way to Vasai, District Palghar, she will

have to travel a distance of 1320 Kms. (to and fro), for which she will have to undertake an overnight journey. She has no relatives at Vasai. Since the Respondent is not making any payment towards the maintenance of herself and her female child, she is depending on her parents. She is therefore also unable to bear the travel expenses and boarding and lodging expenses of herself, her minor female child and the person accompanying her from Akola to Vasai. It is therefore submitted by the Applicant that the above Misc. Civil Application be allowed and Hindu Marriage Petition No. 47 of 2015 filed by the Respondent before the Civil Judge, Senior Division, Vasai, Dist. Palghar be transferred to the Civil Judge, Senior Division, Akola.

3. Despite service, the Respondent has not remained present before the Court. He has also not filed the Affidavit in Reply to the above Misc. Civil Application. In the absence of any defence or contest by the Respondent, the averments contained in the Misc. Civil Application have remained uncontroverted. I therefore see no reason why the statements / submissions made by the Applicant in the above Misc. Civil Application should not be accepted.

4. In the aforesaid facts and 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. I therefore pass the following order :

i. Hindu Marriage Petition No. 47 of 2015 filed by the Respondent husband and pending before the Court of Civil Judge, Senior Division, Vasai, District Palghar is

transferred to the Court of Civil Judge, Senior Division, Akola, Dist. Akola.

- ii. The learned Civil Judge, Senior Division, Vasai, District Palghar shall ensure that the papers and proceedings of Hindu Marriage Petition No. 47 of 2015 are received by the Civil Judge, Senior Division, Akola on or before 12th October, 2017.
- iii. Parties and / or their Advocates shall appear before the Civil Judge, Senior Division, Akola on 13th October, 2017 at 11.00 a.m. and obtain appropriate orders / directions.
- iv. The parties as well as the learned Civil Judge, Senior Division, Vasai, District Palghar and the Civil Judge, Senior Division, Akola to act on an authenticated copy of this order.
- v. The above Application is allowed in the aforesaid terms, with no order as to costs.

(S.J.KATHAWALLA, J.)