

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

MISC. CIVIL APPLICATION NO. 301 OF 2016

Sou. Sonali Mahesh Patil ... Applicant

Versus

Shri Mahesh Sambhaji Patil ... Respondent

ALONG WITH

MISC. CIVIL APPLICATION (ST) NO. 10860 OF 2017

Mahesh Sambhaji Patil ... Applicant

Versus

Sou. Sonali Mahesh Patil ... Respondent

Mr. Anand Patil for the Applicant in MCA No. 301 of 2016 and for the Respondent in MCAST No. 10860 of 2017.

Mr. P.D. Dalvi for the Respondent in MCA No. 301 of 2016 and for the Applicant in MCAST No. 10860 of 2017.

CORAM : S.J. KATHAWALLA, J.

DATED : 9TH JUNE, 2017

P.C.:

1. Misc. Civil Application No. 301 of 2016 is filed under Section 24 of the Code of Civil Procedure, 1908 by the Applicant Wife seeking transfer of Hindu Marriage Petition No. 87 of 2015 filed by the Respondent Husband before the learned Civil Judge, Senior Division at Jaysingpur, District Kolhapur to the learned Civil Judge, Senior Division, at Baramati, District Pune.

2. Misc.Civil Application (ST) No. 10860 of 2017 is filed under Section 24 of the Code of Civil Procedure, 1908 by the Respondent Husband seeking transfer of

Hindu Marriage Petition No. 87 of 2015 filed by him from the Court of Civil Judge, Senior Division at Jaysingpur, District Kolhapur and Hindu Marriage Petition No. 327 of 2015 filed by the Applicant Wife before the Civil Judge, Senior Division at Baramati, District Pune to the Family Court at Pune.

3. The Applicant Wife in MCA No. 301 of 2016 has stated that the marriage between the Applicant and the Respondent was solemnized on 5th July, 2012 at Kolhapur. According to her, since her marriage she was subjected to extreme cruelty and harassment at the instance of the Respondent Husband and his parents, who demanded money and other valuables from her family. According to the Applicant Wife, she was driven out of her matrimonial home on 31st March, 2014. Since then she is residing with her parents at Baramati, District Pune.

4. According to the Applicant Wife, the Respondent Husband filed Hindu Marriage Petition No. 87 of 2015 seeking dissolution of marriage before the learned Civil Judge, Senior Division, Jaysingpur, District Kolhapur. The Applicant Wife too filed Hindu Marriage Petition No. 327 of 2015 seeking restitution of conjugal rights in the Court of the learned Civil Judge, Senior Division at Baramati, District Pune on 11th December, 2015.

5. The Applicant Wife has submitted that the marriage Petition filed by the Respondent Husband before the learned Civil Judge, Senior Division, Jaysingpur, District Kolhapur deserves to be transferred to the learned Civil Judge, Senior Division at Baramati, District Pune because it is not possible for her to attend the

Petition at Jaysingpur, District Kolhapur since the distance between Baramati and Jaysingpur is approximately 250 kms. As against this, the distance between Pune to Baramati is 100 kms and the Respondent Husband can within two hours reach Baramati from Pune to attend the proceedings. The Applicant Wife has also stated in the Application that it is difficult for her to attend the proceedings at Jaysingpur since she is working at Baramati in a private Company.

6. In response to the above Application dated 1st October, 2016, the Respondent Husband has filed his Affidavit in Reply dated 10th January, 2017, wherein he has pointed out that the Applicant Wife has acquired a Post Graduate Degree (Masters) in Computer Science and she is earning Rs.45,000/- per month, she is working at Bitwise Solution Private Limited at Pune and residing at Pune with her uncle – Mr. Nivrutti Dnyandeo Ulape at Warje, Pune. The Respondent Husband has stated that the Applicant Wife has incorrectly stated in her Application that she is working in private firm on temporary basis at Baramati and getting very low salary and that she is residing with her parents at Baramati. It is submitted on behalf of the Respondent Husband that since he as well as the Applicant Wife are both residing at Pune and working at Pune, the marriage Petition filed before the Court at Jaysingpur, District Kolhapur and the matrimonial Petition filed by the Applicant Wife at Baramati be transferred to the Family Court at Pune so that it will be convenient for both the Applicant Wife and the Respondent Husband to attend the matters before the Family Court at Pune.

7. Based on the same grounds / submissions as set out in his Affidavit in Reply to the Applicant's Misc. Civil Application as set out hereinabove, the Respondent Husband has also filed MCA (ST) No. 10860 of 2017 seeking transfer of Hindu Marriage Petition No. 87 of 2015 filed by him before the Civil Judge, Senior Division, Jaysingpur, District Kolhapur and Hindu Marriage Petition No. 327 of 2015 filed by the Applicant Wife before the Civil Judge, Senior Division, Baramati, District Pune to the Family Court at Pune.

8. Though the Applicant Wife has now admitted that she is working at Bitwise Solution Private Limited at Pune and residing at Pune with her uncle – Nivrutti Dnyandeo Ulape at Warje, Pune and is not residing at Baramati with her parents or working in a small private Company on a meager salary at Baramati as stated in her Application, she has chosen to insist that the Marriage Petition No. 87 of 2015 filed by the Respondent Husband at Jaysingpur, District Kolhapur be transferred to Baramati and that the Respondent Husband should attend the Court at Baramati by travelling a distance of 100 kms from Pune to Baramati to attend the proceedings. The stand taken by the Applicant Wife is in my view unfair and unreasonable. If both the parties are admittedly staying at Pune and working at Pune, it will certainly be convenient for both the parties to attend the matters filed by them against each other if they are transferred to the Family Court at Pune. The Court is required to consider the convenience of both the Wife and Husband in this regard and not the convenience of only one of the parties. In the circumstances, I pass the following order :

- i. Misc. Civil Application No. 301 of 2016 is dismissed.
- ii. Misc. Civil Application (ST) No. 10860 of 2017 is allowed.
- iii. Hindu Marriage Petition No. 87 of 2015 filed by the Respondent Husband before the learned Civil Judge, Senior Division at Jaysingpur, District Kolhapur as well as Hindu Marriage Petition No. 327 of 2015 filed by the Applicant Wife before the learned Civil Judge, Senior Division at Baramati, District Pune are directed to be forthwith transferred to the Family Court at Pune.
- iv. The learned Principal Judge, Family Court at Pune is requested to dispose off Hindu Marriage Petition No. 87 of 2015 as well as Hindu Marriage Petition No. 327 of 2015 within a period of one year from the date of this order.
- v. The learned Principal Judge, Family Court at Pune shall not grant adjournments to either party unless absolutely necessary.
- vi. Parties along with their Advocates shall appear before the learned Principal Judge, Family Court at Pune on 18th July, 2017 at 11.00 a.m. and obtain necessary directions.
- vii. The above Miscellaneous Civil Applications are accordingly disposed off.

(S.J.KATHAWALLA,J.)