

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****MISCELLANEOUS CIVIL APPLICATION NO. 204 OF 2015**

Mrs. Prajakata Rajhans Desai

...Applicant

vs.

Mr. Rajhans Krishna Desai

...Respondent

....

Mr. Omar Khaiyam Shaikh, for the Applicant.

None for the Respondent.

....

CORAM : S.C. GUPTE, J.**22 FEBRUARY 2017****P.C.:**

. This application, which seeks transfer of a matrimonial proceeding from the Court at Goa to the Family Court at Thane, is on the footing that the Applicant is an indigent person and, due to her physical and mental state, unable to attend the Goa Court. She submits that the present marriage petition is filed as a second round of litigation on the part of the Respondent herein (the first marriage petition having been withdrawn after the Applicant herein filed a miscellaneous civil application for its transfer).

2. It is submitted that a criminal miscellaneous application filed by the Applicant under the Protection of Women from Domestic Violence Act ("Domestic Violence Act") is pending before the Court of Judicial Magistrate, First Class, Thane. It is submitted that the Respondent is, in any

event, attending this proceeding at Thane. Learned Counsel for the Applicant submits that he is agreeable to have this proceeding transferred to the Family Court at Thane so that both proceedings, that is to say, the marriage petition filed by the Respondent and the proceeding under the Domestic Violence Act, can be conducted together by the Family Court at Thane.

3. There is a reply filed by the Respondent to the Miscellaneous Civil Application. The only contention in the reply is that the Respondent is a senior citizen suffering from various ailments and, accordingly, the application filed by the Applicant be dismissed; that it would be a matter of great hardship to the Respondent, if the case is transferred from the Court at Goa to the Family Court at Thane.

4. In any event, as I have noted above, the Respondent has been attending criminal proceeding filed by the Applicant in the Court of Judicial Magistrate, First Class, Thane. If this proceeding is transferred to the Family Court at Thane, it can conveniently be heard along with the marriage petition. In that case, no inconvenience is likely to be caused to the Respondent. In any case, several common questions of law arise in the two proceedings and common evidence is likely to be submitted. It is, accordingly, in the interest of justice that the marriage petition is transferred to Thane, to be heard along with the case under the Domestic Violence Act.

5. The Miscellaneous Civil Application is, accordingly, allowed in terms of prayer clause (b). It is also ordered that criminal miscellaneous application bearing OMA No.29 of 2014 pending before the Court of

Judicial Magistrate, First Class at Thane shall be transferred to the Family Court at Thane, to be heard along with the transferred Marriage Petition No.123/2014/11.

(S.C. GUPTE, J.)