

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
MISCELLANEOUS CIVIL APPLICATION NO. 294 OF 2016

Mrs.Smita Santosh Jadhav ... Applicant

Versus

Mr.Santosh Shankar Jadhav ... Respondent

Mr. Abhijit Sarwate for the Applicant.
None for the Respondent.

CORAM : S.J. KATHAWALLA, J.
DATED : 21ST JUNE, 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 the Hindu Marriage Petition No. 195 of 2016 filed by the Respondent-husband seeking divorce pending before the Court of Civil Judge Senior Division, Sangli to the Family Court at Pune.

2. The Applicant and the Respondent were married on 11.07.2008. There is one child (son) born to the Applicant and the Respondent on 21.08.2013 who is presently in the care and custody of the Applicant-wife. Since disputes arose between the parties, the Applicant-wife is residing with her minor son at her parental home at Pune.

3. The Applicant has submitted that she is working at Persistent Systems Pvt. Ltd., Nal Stop, Pune. The Respondent is working at Cognizant Technologies at

Hinjewadi, Pune since the last three years. Though the Respondent is residing at Pune, he has filed the Matrimonial Petition No.195 of 2016 seeking divorce before the Civil Judge Senior Division, Sangli only with a view to cause inconvenience and hardship to the Applicant. It is submitted by the Applicant that the Applicant as well as the Respondent being in the IT sector, they generally work for five days a week with weekly off on Saturdays and Sundays. However, on numerous occasions they are made to work for added compensation even on weekends. The minor son Anvay is three and half years old and is presently enrolled in Play Group at My School, Dhankawadi, Pune. The distance between Pune and Sangli is 230kms. (one way). On the dates of hearing, the Applicant has to leave her house from Pune at 4.00 a.m. and reach Sangli by 11.00 a.m. The Applicant is accompanied by her parents as well as her minor child. Sometimes, she also leaves her house a day prior, so as to remain present for the court proceedings on time. The amount spent on each trip to Sangli is about Rs.4000/-. It is therefore, submitted that grave inconvenience and hardship is caused to the Applicant to go all the way to Sangli to defend the Marriage Petition filed by the Respondent-husband despite he being a resident of Pune since the last three years.

4. Though the Respondent is served with the proceedings and an Affidavit proving service is filed on 01.03.2017, the Respondent has not filed his Affidavit-in-Reply to the above Petition and has also not come forward to defend the Petition. Since both the Applicant as well as the Respondent are working and residing at Pune, it appears that the Respondent has filed divorce petition at Sangli only with a view to

cause harassment to the Applicant. Even otherwise, for reasons set out by the Applicant in the Petition and recorded hereinabove, grave inconvenience and hardship will be caused to the Applicant if she being a working mother, who is also required to look after her minor child, has to travel from Pune to Sangli on every adjourned date.

5. In the light of the above, the Miscellaneous Civil Application for transfer is required to be allowed and I therefore, pass the following order :

(a) The Marriage Petition No. 195 of 2016 filed by the Respondent-husband is directed to be transferred from the Court of Civil Judge Senior Division, Sangli to the Family Court at Pune.

(b) The Court of Civil Judge Senior Division, Sangli is directed to transmit the papers and proceedings of Marriage Petition No. 195 of 2016 to the Family Court at Pune.

(c) A copy of this Order shall be served on the Respondent at his residential address as well as his office address and if for any reason, he refuses to accept a copy of this order, the Inspector In-charge of the Local Police Station shall render all assistance to the Applicant and/or her Advocate in serving a copy of this order on the Respondent and obtaining his acknowledgment.

(d) The parties as well as the Court of Civil Judge Senior Division, Sangli and the Family Court at Pune to act on an authenticated copy of this Order ;

(e) The parties and/or their Advocates shall appear before the Family Court at Pune on 21st August, 2017 at 11.00 a.m. and obtain appropriate orders/directions.

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

(S.J.KATHAWALLA, J.)