

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTIONMISCELLANEOUS CIVIL APPLICATION NO. 60 OF 2015

Smt. Shweta Laxmikant Borawake

... Applicant

vs.

Laxmikant Arvind Borawake

...Respondent

*Mr. Sagar Kursija, instructed by Mr. T.D. Deshmukh, for the Applicant.**Mr. Abhijit Kadam for the Respondent.***CORAM: S.J. KATHAWALLA, J.****DATE: 12TH JUNE, 2017****P.C.**

1. By this application, the Applicant-wife seeks transfer of Hindu Marriage Petition No. 331 of 2014 filed by the Respondent-husband before the Learned Civil Judge, Senior Division, Satara, to the Learned Civil Judge, Senior Division, Rajgurunagar.

2. According to the Applicant, her marriage was solemnised with the Respondent at Pune on 31st May, 2005. From the said marriage, they have a son named Arjun, who is ten years old. Some time in 2007, the Applicant was forced to leave her matrimonial home along with her minor son Arjun. The Applicant is therefore residing with her parents in village Nirgude since March, 2007.

3. Thereafter immediately on 16th March, 2007, the Applicant was shocked to receive a notice sent by the Respondent through his lawyer calling

upon her to give her consent to put an end to the matrimonial ties between the Applicant and the Respondent. The Applicant vide reply dated 25th March, 2007 pleaded with the Respondent to reconsider his decision to dissolve the marriage at least in the interest of their son's future. However, the Applicant and the minor son were not allowed to return to the matrimonial home.

4. The Respondent filed a Petition seeking divorce on 31st July, 2014 before the Learned Civil Judge, Senior Division, Satara, being Hindu Marriage Petition No. 331 of 2014. By an order dated 19th January, 2015, the Respondent was directed to pay maintenance of Rs. 3,000/- per month to the Applicant. Except for making payment of Rs.18,000/-, the Respondent has not made any payment to the Applicant and is therefore in breach of the said order dated 19th January, 2015. The Respondent has also not filed any Appeal impugning the said order dated 19th January, 2015.

5. It is submitted on behalf of the Applicant that the distance between her village-Nirgude and Satara where the Marriage Petition is filed by the Respondent is 225 Kms. (one way). The same being a remote village is not directly connected to Satara by bus. The Applicant is therefore required to take a bus from village Nirgude to Junnar and another bus from Junnar to Pune and further from Pune to Satara. The frequency of buses from Junnar to Satara is also less and the timings are not convenient to the Applicant as she being a lady is required to travel alone. The Applicant's father and mother are heart patients

and it is not possible for her younger brother who is a student to accompany her to Satara. The Applicant's son is now 11 years old and the Applicant has to travel about 30 minutes daily to drop her son to School and again 30 minutes back to village Nirgude. It is therefore impossible for the Applicant to go to Satara to defend the divorce proceedings. The Applicant and her minor son are completely at the mercy of her parents since the Respondent has in the last ten years only paid an amount of Rs. 18,000/- to her and, as stated hereinabove, is in breach of the order passed in the Marriage Petition dated 19th January, 2015. It is submitted that, as against this, as observed in the order dated 19th January, 2015, the Respondent has a garage and a servicing centre and he is not a labourer as alleged by him in the Marriage Petition. The Respondent can always travel from Satara to Rajgurunagar.

6. From the aforestated facts, I am satisfied that it is extremely difficult for the Applicant to travel from her village Nirgude to Satara to defend the divorce petition filed by the Respondent. She is required to go to Satara a day earlier where she is unable to arrange an overnight stay. Apart from the grave inconvenience caused to her, she is also facing grave financial difficulty since the Respondent has even breached the order passed by the Court dated 19th January, 2015, granting maintenance of Rs. 3,000/- per month for the Applicant and her minor son. As against this, the Respondent who is running a garage and servicing centre can travel from Satara to Rajgurunagar and pursue his Marriage

Petition before the Learned Civil Judge, Senior Division, Rajgurunagar. The only reason given in support of the submission that the matter should not be transferred is that one of the witnesses of the Respondent is already cross-examined. However, on a query raised by the Court, the Court is informed that two more witnesses are yet to be examined by the Respondent and thereafter the Applicant will have to examine herself and her witnesses. The Application therefore deserves to be allowed. In view thereof, I pass the following order:

The Hindu Marriage Petition No. 331 of 2014 filed by the Respondent before the Learned Civil Judge, Senior Division, Satara is transferred to the Learned Civil Judge, Senior Division, Rajgurunagar. The Application is accordingly disposed off.

(S.J. KATHAWALLA, J.)