

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

MISC. CIVIL APPLICATION NO.6 OF 2017

Archana Shreyas Tripathi	...	Applicant
versus		
Shreyas Omprakash Tripathi	...	Respondent

Ms. Avanti Inamdar i/by Mr. R.N.Gite, for Applicant.

Mr. Sharad Bhosale i/by Mr. Nitin Gharpude, for Respondent.

CORAM: S.J. KATHAWALLA, J.

DATE: 30th JUNE, 2017

P.C.:

1. The above Misc. Civil Application is filed by the Applicant Wife under Section 24 of the Code of Civil Procedure, 1908 for transfer of the Hindu Marriage Petition No. A-415 of 2016 filed by the Respondent Husband from the Court of Civil Judge, Senior Division, Ahmednagar to the Family Court, Nashik.
2. The Applicant and the Respondent were married on 20th May, 2013. According to the Applicant, disputes arose between the parties and on 27th July, 2013 she was driven out of her matrimonial home. She is not receiving any maintenance from the Respondent, instead on 1st August, 2016 the Respondent filed Petition No. A-415 of 2016 before the learned Civil Judge, Senior Division, Ahmednagar seeking dissolution of their marriage.
3. In April-2017, the Respondent has received service of the above Application.

However, the Respondent has till date not filed his Affidavit in Reply to the above Application.

4. On 8th June, 2017 Adv. Nitin Gharpude appeared on behalf of the Respondent and sought time. On that day, this Court recorded that the above Application will be heard finally on 29th June, 2017. On 29th June, 2017, when the matter was called out, the Advocate for the Respondent was absent. The Application was therefore, adjourned till today.

5. Today, when the matter is called out in the morning session, again none appeared for the Respondent. The Application was therefore kept back and the Advocate for the Applicant was asked to contact Adv. Gharpude. The Application is again called out at 03.00 p.m. when Advocate Bhosale appears for the Respondent and states that Adv. Gharpude has gone to Aurangabad and the Respondent has till date not signed the vakalatnama in favour of Advocate Gharpude. In view of the aforesaid conduct on the part of the Respondent, who has received service on behalf of the Applicant in April, 2017 and also in view of the conduct of the Advocate who after earlier appearing before this Court and seeking time does not have the courtesy to appear before the Court when the matter is called out and to inform the Court that the Respondent has not signed the Vakalatnama in his favour, the Court proceeds to hear the above Misc. Civil Application finally.

6. According to the Applicant, the distance between Nasik to Ahmednagar is

about 320 km (to and fro) and it is very difficult for her to travel this distance without being accompanied by a male member from her parental home. Even otherwise, her financial condition is very poor and she is unable to bare the travel and other expenses of herself and her escort. She has also alleged that the Respondent is of criminal nature and she has received threats from him.

7. As stated hereinabove, though the Respondent appointed an Advocate in the matter, he has not only not filed his Affidavit in Reply to the above Application but has also not signed the Vakalatnama in favour of his Advocate.

8. From the facts set out by the Applicant, it is clear that grave inconvenience and hardship will be caused to the Applicant if she is required to travel a distance of 320 kms in the absence of a male escort. The Applicant is also not receiving any maintenance from the Respondent and does not have the means to undertake the journey from Ahmednagar to Nashik. The Respondent has not filed his Affidavit in Reply to the above Application. In the circumstances, I pass the following order :

- i. The learned Civil Judge, Senior Division, Ahmednagar is directed to transmit the papers and proceedings of the Hindu Marriage Petition No. A-415 of 2016 to the Family Court, Nashik.
- ii. The parties as well as the learned Civil Judge, Senior Division, Ahmednagar and the Family Court Nashik to act on an authenticated copy of this order.
- iii. Parties and / or their Advocates shall appear before the Family Court,

Nashik on 27th July, 2017 at 11.00 a.m. and obtain appropriate orders.

iv. The above Misc. Civil Application is allowed in the aforesaid terms, with no order as to costs.

(S.J.KATHAWALLA, J.)