

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

MISC. CIVIL APPLICATION NO. 26 OF 2016

Sou. Megha Santosh More & Anr. ... Applicants

Versus

Shri Santosh Bhagwan More ... Respondent

Mr. Tushar Pimple for the Applicant.

Mr. U.B. Nighot for the Respondent.

Mr. Santosh Bhagwan More – Respondent present in person.

CORAM : S.J. KATHAWALLA, J.
DATED : 1ST AUGUST, 2017
(IN CHAMBERS)

P.C.:

1. The above Misc. Civil Application is filed by the Applicant wife seeking transfer of the Marriage Petition No. 267 of 2014 filed by the Respondent husband before the Civil Judge, Senior Division, Barshi to the Civil Judge, Senior Division, Sangli.

2. The marriage between the parties was solemnized on 23rd November, 2009. The Applicant and the Respondent have a daughter, who is now three and half years old. The Applicant has filed Misc. Application No. 261 of 2014 before the Judicial Magistrate, First Class, Sangli under Sections 12, 18, 19, 20 and 22 of the Protection of Women from Domestic Violence Act, 2005 on 8th July, 2014. According to the Applicant, as a counter blast to the said Application, the Respondent filed Marriage

Petition No. 267 of 2014 before the Civil Judge, Senior Division, Barshi under Section 9 of the Hindu Marriage Act, 1955 and Section 7 of the Family Courts Act, 1984 seeking restitution of conjugal rights. The Applicant has submitted that she is having one daughter and is required to look after her. She has submitted that to go all the way from Sangali to Barshi, she will have to undertake an overnight journey, which will not be possible since her daughter who is three and half years old requires her constant care and attention. The Applicant has further submitted that there is no one to accompany her to Barshi from Sangli. She has submitted that despite an order directing the Respondent to pay maintenance to the Applicant and her minor daughter, the Respondent has failed to pay the same. Therefore even otherwise she is unable to bear the travel as well as the boarding and lodging expenses of herself and an escort, if she is required to travel from Sangli to Barshi. The Applicant has therefore submitted that the above Misc. Civil Application be allowed.

3. The Respondent has submitted that it is not possible for him to travel from Sangli to Barshi since he is suffering from night blindness.

4. Since it is inconvenient for both the parties to undertake an overnight journey between Sangali and Barshi, the Court has suggested to the parties that they may proceed with the hearing of Marriage Petition No. 267 of 2014 through Video Conferencing. The parties have agreed to this suggestion and the following order is passed by consent :

i. Both the parties shall proceed with Marriage Petition No. 267 of 2014

pending before the Civil Judge, Senior Division, Barshi through Video Conferencing.

ii. If the Court of Civil Judge, Senior Division, Barshi is not equipped to conduct the matter through Video conferencing, the Respondent and / or her Advocate shall provide a laptop along with Wi-Fi and other equipments to conduct the matter / trial through Video Conferencing.

iii. Both the parties agree that they shall not seek adjournments and shall proceed with the matter on the given dates. The Court too shall not grant adjournments to the parties unless absolutely necessary.

iv. Since the Respondent has failed to pay any amount towards maintenance despite orders / directions of the Court, the Applicant shall file proceedings as advised before the appropriate Court and upon such proceedings being filed, the same shall be disposed off within a period of four weeks from the date of its filing.

v. After the Respondent clears all the arrears of maintenance and regularly starts making monthly payments of maintenance as ordered, he shall move an Application seeking access to the minor child, which too shall be decided within a period of four weeks from the date of such filing.

vi. The above Misc. Civil Application is accordingly disposed off.

(S.J.KATHAWALLA, J.)