

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

MISC. CIVIL APPLICATION NO.30 OF 2016

Seema Dinesh Kalamkar	...	Applicant
versus		
Dinesh Shantaram Kalamkar	...	Respondent

Mr. Subhash Gutte, for Applicant.
None for Respondent.

CORAM: S.J. KATHAWALLA, J.

DATE: 24th AUGUST, 2017

P.C.:

1. By the above Misc. Civil Application filed under Section 24 of the Code of Civil Procedure, 1908, the Applicant-wife seeks transfer of the Marriage Petition No.1093 of 2015 filed by the Respondent-husband and pending before the Civil Judge, Senior Division, Pune to the Judicial Magistrate, First Class, Mangaon, Raigad.
2. The marriage between the Applicant and Respondent was solemnized on 26-05-2009. Since disputes arose between the parties, the Applicant started residing with her parents at Mangaon, District Raigad. The Applicant filed a case under the Protection of Women from Domestic Violence Act, 2005, wherein an order dated 20-04-2016 is passed, directing the Respondent husband to pay an amount of Rs.5,000/- p.m. to the Applicant towards her maintenance. According to the Applicant, the Respondent has till date not paid a single rupee to her in compliance of

the said order and has therefore, committed willful breach of the same.

3. It is submitted by the Applicant that the distance between Mangaon and Pune is 360 kms to and fro. The Applicant is completely dependent on her parents for her survival and grave inconvenience and hardship will be caused to her if she is required to travel from Mangaon to Pune to attend the proceedings filed by the Respondent before the Civil Judge, Senior Division at Pune.

4. The Applicant had informed the Court that according to her, the Respondent is avoiding service. In view thereof, on 9th August, 2017 this Court directed the Inspector in charge of the local police station to assist the Advocate for the Applicant in serving a copy of the order dated 9th August, 2017, placing the above Misc. Civil Application for hearing and final disposal, by hand delivery and to obtain his signature. The Respondent despite being served with a copy of the above Misc. Civil Application as well as the orders passed by this Court, has failed to remain present by himself and/or his Advocate. In view thereof, in the absence of any defence or contest by the Respondent, the averments contained in the Misc. Civil Application have remained uncontroverted. I see no reason why the statements / submissions made by the Applicant in the above Misc. Civil Application should not be accepted. In the circumstances, I am satisfied that grave inconvenience and hardship will be caused to the Applicant, if the relief sought in the above Misc. Civil Application is not granted. In the circumstances, I pass the following order :

- i. The Marriage Petition No.1093 of 2015 filed by the Respondent before the Civil Judge, Senior Division, Pune, stands transferred to the Court of Civil Judge, Senior Division, Mangaon, Raigad, since the Judicial Magistrate, First Class, Mangaon, Raigad has no jurisdiction to decide the said Marriage Petition.
- ii. The parties as well as the learned Civil Judge, Senior Division, Pune, and the Civil Judge, Sr. Division, Mangaon, Raigad to act on an authenticated copy of this order.
- iii. The Court of Civil Judge, Senior Division, Pune, is directed to transmit the papers and proceedings of Marriage Petition No. 1093 of 2015 to the Civil Judge, Senior Division, Mangaon, Raigad, on or before 16th September, 2017.
- iv. Parties and / or their Advocates shall appear before the Civil Judge, Senior Division, Mangaon, Raigad on 18th September, 2017 at 11.00 a.m. and obtain appropriate orders / directions.
- v. A copy of this order shall be forthwith forwarded to the Respondent at his Office as well as residential address by the Advocate for the Applicant by Speed Post A.D./Registered Post A.D. and/or by hand delivery.
- vi. The above Misc. Civil Application is allowed in the aforesaid terms, with no order as to costs.

(S.J.KATHAWALLA, J.)