

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
MISCELLANEOUS CIVIL APPLICATION NO. 31 OF 2017

Mrs. Pragya Amitkumar Shukla	...	Applicant
Versus		
Mr. Amitkumar Shashikumar Shukla	...	Respondent

Mr.Sachin Padaye for the Applicant.
None for the Respondent.
Applicant present in Court.

CORAM : S.J. KATHAWALLA, J.
DATED : 14th SEPTEMBER, 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 Marriage Petition No.110 of 2016 filed by the Respondent-husband seeking restitution of conjugal rights pending before the District Court at Pune to the Family Court at Nashik.
2. According to the Applicant, the marriage between her and the Respondent was solemnized at Nashik on 30.12.2014. Since disputes arose between the parties, the Applicant started residing with her parents at Nashik from 14.07.2016.
3. The Advocate for the Applicant has submitted that the Applicant will have to travel a distance of approximately 300 to 400 kms (to and fro), if she is required to travel all the way from Nashik to Pune to attend the matrimonial proceedings filed by the Respondent-husband against her at Pune. It will also be very difficult for her to

repeatedly undertake the journey since she is a student and doing the course of Company Secretary at Nashik. On a query raised by the Court as to whether the Respondent has extended any financial assistance to the Applicant in the last more than one year from separation, the answer is in the negative. The Advocate for the Applicant also pointed out that the Applicant has filed matrimonial Petition No.A-608 of 2016 under Section 27(d) of the Special Marriage Act, 1954 before the Family Court at Nashik seeking dissolution of marriage between the Applicant and the Respondent. She has also filed Miscellaneous Application being No.1283 of 2016 under Section 12 of the Protection of Women Against Domestic Violence Act, 2005, before the Judicial Magistrate, First Class at Nashik which proceedings the Respondent is attending / shall be attending at Nashik. In response to a query raised by the Court qua the qualification and job particulars of the Respondent, she has stated that the Respondent is an Instrumental Engineer and is working with TATA Motors and his approximate salary is of Rs.50,000/-. The Applicant has submitted that in the circumstances, grave inconvenience and hardship will be caused to her, if she is required to attend the matrimonial proceedings filed by the Respondent at Pune. She therefore submitted that the above application be allowed.

4. Though the Respondent is served with a copy of above Miscellaneous Civil Application, he has failed to appear before this Court by himself or through his Advocate. He has also not filed his Affidavit-in-reply. In view thereof, what is stated by the Applicant in her application has remained uncontroverted. There is no reason

why this Court should not accept the submissions made by the Applicant in her application. I am therefore satisfied that grave inconvenience and hardship will be caused to the Applicant if she is required to travel a distance of 300 to 400 kms. (to and fro) from Nashik to Pune to attend the proceedings filed by the Respondent on every adjourned dates before the District Court at Pune more so when she has till date not received a single rupee from the Respondent towards maintenance and is completely at the mercy of her parents for her survival, and also because it is in the interest of the parties if one Court hears the marriage petition for divorce as well as the Petition seeking restitution of conjugal rights. Hence, the following Order is passed.

- (a) The Marriage Petition being No. 110 of 2016 filed by the Respondent-husband is directed to be transferred from the District Court at Pune to the Family Court at Nashik.
- (b) The Registrar, District Court at Pune shall ensure that the papers and proceedings of Marriage Petition No.110 of 2016 reaches the Family Court at Nashik on or before 25th September, 2017.
- (c) The parties and/or their Advocates shall appear before the Family Court at Nashik on 27th September, 2017 at 11.00 a.m. and obtain appropriate orders.
- (d) The Family Court at Nashik shall hear the Divorce Petition being No.A-608 of 2017 and Marriage Petition No.110 of 2016 together and shall endeavour to dispose of the same within a period of six months from the date of this order.

(e) The Family Court at Nashik shall not grant any adjournment to the parties unless absolutely necessary. The parties too shall not seek any adjournment unless absolutely necessary.

(f) The parties as well as the District Court at Pune and the Family Court at Nashik to act on an authenticated copy of this Order

(g) The Advocate for the Applicant shall serve a copy of this order on the Respondent by Speed Post/Registered Post A.D. and/or by hand-delivery.

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

(S.J.KATHAWALLA, J.)