

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

MISCELLANEOUS CIVIL APPLICATION (ST.) NO.924 OF 2018

Prachi Prashant Zadbuke	 Applicant
V/s.	
Prashant Suresh Zadbuke	 Respondent

Mr. Kishor Naik, I/by Mr. Sushant Prabhune, for the Applicant.

Mr. Balwant V. Salunkhe for the Respondent.

CORAM : DR. SHALINI PHANSALKAR-JOSHI, J.

DATE : 26TH JULY 2018.

P.C. :

1. Heard Mr. Naik, learned counsel for the Applicant, and Mr. Salunkhe, learned counsel for the Respondent.

2. This Miscellaneous Civil Application is preferred, under Section 24 of the Code of Civil Procedure, 1908, for transferring Marriage Petition No.603 of 2017 pending before the Court of Civil Judge, Senior Division, Sangli, to the Court of Civil Judge, Senior Division, Baramati.

3. The said Petition is filed by the Respondent-husband. The Applicant is residing at Baramati and having responsibility of the minor child of the age of eight years. It is her contention that, the distance between Baramati and Sangli is approximately of about 200 Kms. one way and as a result, she is facing lot of difficulties and inconvenience to

attend the proceedings at Sangli; especially having regard to the responsibility of her small child and for more than whole day, she has to spend in travelling.

4. Learned counsel for the Respondent has strongly resisted this Miscellaneous Civil Application by contending that, there is no ground made out for transfer of the said Petition, as the Applicant can very well travel the said distance, as it is not much. To substantiate this submission, learned counsel for the Respondent has relied upon the Judgment of the Hon'ble Apex Court in the case of *Anindita Das Vs. Srijit Das, 2006 (9) SCC 197*, wherein the application for transferring the proceedings was made by the wife on the count that, she is having a small child of six years and she has no source of income; therefore, it was difficult for her to attend the Court at Delhi. The said application was rejected by the Apex Court on the ground that, there were grandparents available to look after the child and Respondent was willing to pay all the expenses for travel and stay of the Applicant-wife and her companion for every visit, when she was required to attend the Court at Delhi.

5. Learned counsel for the Respondent has then also relied upon the Judgment of the Hon'ble Apex Court in the case of *Preeti Sharma Vs. Manjit Sharma, 2005 (11) SCC 535*, wherein also, the Petitioner was the

wife, who was an unemployed lady, totally depending on her uncle and hence she was finding difficulty to defend the Suit filed at Muzaffar Nagar, U.P., as she was residing at Delhi. The said application was also rejected by the Apex Court on the count that, merely because she is a lady does not mean that she cannot travel to Muzaffar Nagar. It was held that, at the highest, she can be paid expenses for travel and stay of her and also of her companion.

6. Here in the case also, it is submitted by learned counsel for the Respondent that, Respondent is ready to bear the travel and stay expenses of the Applicant and her companion.

7. Learned counsel for the Applicant submits that, even if Respondent is ready to bear the travel and stay expenses, then also, Applicant may not be in a position to travel; especially considering the number of hours involved in the journey and also she will have to travel with her child and hence the inconvenience, hardship and difficulties, which she is likely to suffer, if she is asked to travel on every date with her child, will not be reduced in any way. Moreover, it is submitted that, there is no one in her family to look after the child. Further it is submitted that, the Respondent is already attending the proceedings under the Domestic Violence Act, which Applicant has filed in the Court at Baramati.

8. Hence, considering all these aspects of the case and the inconvenience and the difficulties; especially the hardship, which the Applicant-wife is likely to suffer, if she is asked to travel on each and every date from Baramati to Sangli, and that may result into her inability to defend the said proceedings effectively, it has become necessary to transfer these proceedings to Baramati; especially because, otherwise also, Respondent is travelling to Baramati to attend the proceedings under the Domestic Violence Act.

9. Both the parties can ensure that, one and the same date is given in both the proceedings. To that extent, they can definitely accommodate each other.

10. Hence, the Miscellaneous Civil Application is allowed. Marriage Petition No.603 of 2017, pending on the file of the Civil Judge, Senior Division, Sangli, is transferred to the Court of Civil Judge, Senior Division, Baramati.

11. Miscellaneous Civil Application is disposed off in the above terms.

[DR. SHALINI PHANSALKAR-JOSHI, J.]