

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

MISCELLANEOUS CIVIL APPLICATION NO. 38 OF 2018

Pratikasha Prasad Boraydia ... Applicant
Vs.
Prasad Rajendra Boraydia @ Dayama ... Respondent

Mr. Lokesh D. Zada, Advocate for the applicant.
Mr. Nitiin P. Deshpande, Advocate for the respondent.

CORAM: MRS.MRIDULA BHATKAR, J.
DATE: 27th April, 2018.

P.C.

This Application is filed by the applicant/wife under section 24 of the Code of Civil Procedure for transfer of Hindu Marriage Petition No. A-741 of 2017 filed by the respondent/husband for nullity, which is pending before the 3rd Family Court at Pune to the Court of Civil Judge Senior Division at Malegaon, District Nashik.

2. The learned counsel for the applicant/wife submitted that the applicant/wife has filed the Marriage Petition No. 312 of 2017 for restitution of conjugal rights under section 9 of Hindu Marriage Act before the Civil Judge Senior Division, Malegaon. The learned counsel submitted that the respondent/husband has filed the Petition at Pune and it is not convenient for the applicant to travel from Pune

to Nashil. The learned counsel submitted that the applicant is not working.

3. The learned counsel for the respondent/husband submitted that respondent has filed the Petition for nullity and in fact both the parties are not interested in staying together and this issue can be worked out. He submitted that the parties are not interested in keeping the marriage in tact. The learned counsel opposed this application for transfer of petition.

4. The Petition for restitution of conjugal rights is filed by the applicant/wife at Malegaon and Petition for anulment of marriage is filed by the respondent/husband at Pune. There is possibility of passing conflicting orders in the Petitions and therefore, it is a good ground to transfer Petition No. A-741 of 2017 from Family Court, Pune to the Court at Malegaon. If the parties wants to settle the matter amicably, then they may proceed before the learned Civil Judge Senior Division, Malegaon by seeking assistance of mediator.

5. Under such circumstances, Marriage Petition No. A-741 of 2017 filed by the respondent/husband for nullity is transferred from

the Family Court, Pune to the Court of Civil Judge Senior Division at Malegaon, District Nashik where Marriage Petition No. 312 of 2017 for restitution of conjugal rights is pending. Both the Petitions are to be clubbed together. The Superintendent/Nazir of the Family Court, Pune is hereby directed to send all the record and proceedings of Marriage Petition No. A-741 of 2017 to the Court of Civil Judge Senior Division at Malegaon, District Nashik on or before 10th May, 2018. The 3rd Family Court Judge, Pune to give the directions accordingly.

6. Miscellaneous Civil Application is allowed and is accordingly disposed of.

(MRIDULA BHATKAR, J.)