

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

MISCELLANEOUS CIVIL APPLICATION NO.54 OF 2017

Sou. Varsha Mangesh Sutar

..Applicant

vs.

Shri Mangesh Chandrakant Sutar

...Respondent

Mr. Amit B. Borkar for the Applicant.

Mr. A. M. Adagule for the Respondent.

CORAM : A. M. DHAVAL, J.

DATE : 28th SEPTEMBER, 2018.

P.C.:

. On the request of the learned Advocate for the applicant, leave to amend the application is granted.

2. The applicant wife has sought transfer of Marriage Petition No.319/2016 for restitution of conjugal rights from Kolhapur to Pune.

3. The marriage between the parties took place on 23/4/2012 at Pune. Out of the wedlock the applicant was blessed with one girl child. The parties co-habited at Pune and Kolhapur. The husband is serving in Mumbai but he has filed petition for restitution of conjugal rights in the Kolhapur Court, where he was serving earlier. Whereas the wife has filed Misc. Application No.5091/2017 under Domestic Violence Act, 2005 in the JMFC Court at Pune.

4. Considering the fact that Kolhapur is not convenient for both the parties and marriage had taken place at Pune and wife is having small child to be looked after, it is a fit case for transfer. In this regard, I rely on

the judgment in the case of *Sumita Singh vs. Kumar Sanjay*¹ wherein it is held that in so far as matrimonial dispute is concerned convenience of the wife should be looked at.

5. At this stage, Mr. Adagule, learned counsel for the Respondent has made a proposal that if the parties agree, the matter be referred to mediation as there are chances of settlement. Hence the order:

ORDER

- i) Marriage Petition No.319/2016 and Misc. Application No.5091/2017 under Domestic Violence are hereby transferred from their respective Courts to the Family Court, Pune for conducting the trial of both the matters together.
- ii) The Family Court, Pune is requested to refer the matter to mediation as per consent of the parties.
- iii) The parties are directed to remain present on 17/10/2018 in the Family Court, Pune.
- iv) The concerned Superintendents shall see that papers of the matters reach the Family Court, Pune in time.
- v) The application is allowed and disposed of.

(A. M. DHAVALA, J.)

¹ AIR 2002 SC 396