

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

MISCELLANEOUS CIVIL APPLICATION (St.) NO. 2712 OF 2018

Akshara Amol Chavhan	... Applicant
Vs.	
Amol Krushna Chavhan	... Respondent

Mr. Jyotiram S. Yadav, Advocate for the applicant.
Mr. Satyajeet A. Rajeshirke, 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. 158 of 2017 filed by the respondent/husband for divorce, which is pending before the Court of Civil Judge Senior Division, Islampur, District Sangli to the Court of Civil Judge Senior Division at Thane.

2. The learned counsel for the applicant/wife submitted that the applicant/wife has filed the Marriage Petition No. 80 of 2018 for restitution of conjugal rights under section 9 of Hindu Marriage Act before the Civil Judge Senior Division, Thane. The learned counsel submitted that the applicant is housewife and completely dependent on her husband. The learned counsel submitted that four years old

son of the couple is with the applicant/wife and she takes care of him. Under such circumstances, it is not convenient for the applicant to travel from Navi Mumbai to attend the Court dates at Sangli, which is one way 350 kms.

3. The learned counsel for the respondent/husband while opposing this Application has submitted that the respondent is in the police service and is required to remain at his station at Sangli. He submitted that the wife is educated and she can travel from Navi Mumbai to Sangli and the respondent is ready to pay her to and fro travel expenses. The learned counsel has further submitted that the respondent has filed the Divorce Petition first in time, i.e., in 2017 and the wife has filed Petition for restitution of conjugal rights in 2018. He submitted that the pendency in Islampur Court is lesser than the Court of Civil Judge Senior Division, Thane. He submitted that all the witnesses are staying at Islampur and therefore, the proceedings at Islampur can be expedited. He further submitted that in fact the respondent is also ready to lead married life with the applicant, however, at present, the relations between the parties are strained and mediation may work on it.

4. Considered the submissions. The respondent/husband, being in police service, though it is difficult for him to take leave and attend the Court dates at Thane, however, it is also difficult for the applicant/wife to attend the Court dates at Islampur by travelling 350 kms. one way, i.e., nearly 700 kms. to and fro distance in a day either with four years old child or keeping him at home. After weighing inconvenience of both the parties, convenience of minor child is most important and to be given maximum weightage. The applicant/wife is looking after the child. She has filed the Petition for restitution of conjugal rights and respondent/husband has filed the Petition for divorce and there is possibility of conflicting orders. So, I am of the view that ground is made out to transfer the case. Hence, following order:

- (i) Marriage Petition No. 158 of 2017 filed by the respondent/husband for divorce before the Court of Civil Judge Senior Division, Islampur, District Sangli is transferred to the Court of Civil Judge Senior Division at Thane where Marriage Petition No. 80 of 2018 for restitution of conjugal rights is pending.
- (ii) The Superintendent/Nazir of the Islampur Court is hereby directed to send all the record and proceedings of

Marriage Petition No. No. 158 of 2017 to the Court of Civil Judge Senior Division at Thane on or before 15th May, 2018.

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

(MRIDULA BHATKAR, J.)