

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

M.CIVIL APPLICATION NO.143 OF 2018

Mrs. Maya Sunil Satpute .. Applicant
Versus
Sunil Sambhaji Satpute .. Respondent

Mr. Vaibhav Gaikwad for applicant
Mr. Tushar Khairnar I/b. Umesh Mankapure for respondent No.1.

Yogeshwar
Bhalchandra
Gokhale

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CORAM : ARUN MADHAV DHAVAL, J.

DATE : 19th September 2018.

P.C.

This is an application by wife for transfer of Hindu Marriage Petition No.185 of 2017 filed by the husband in the court at Pandharpur. The wife has filed application under section 9 of Hindu Marriage Act for restitution of conjugal rights in the court of Senior Division, Waduj subsequent to the filing of divorce petition.

2] The applicant married to respondent on 28th November 2014 at Sangola, Taluka Kadlas Dist. Solapur. Thereafter, they cohabitated at Kalamboli, Navi Mumbai. Husband was working in Navi Mumbai. No issue was born out of the said wedlock.

3] Since 2015, the parties have separated for reasons disputed. According to wife she was given kick and fist blows and was abused and driven out of house in presence of her in laws. There were also demand for dowry. Hence, the applicant wife seeks transfer of divorce petition from Pandharpur to Waduj on the ground that she has no source of income and the respondent is serving at Navi Mumbai and had no reason to file divorce petition at Pandharpur.

4] Learned Advocate for the respondent, however, claims that he has been terminated by his office with effect from 31st July 2018 and is doing labour work in his village.

5] As held in Sumita Singh Vs. Kumar Sanjay & Anr., reported in **A.I.R. 2002 S.C. 396**, in Matrimonial proceedings filed by the respondent, normally convenience of wife must be looked at. In the present case, wife is having no source of income. Besides there are allegations that she was brutally assaulted by her husband in the presence of her in laws. In these circumstances, it will not be

easy for the wife to conduct the matter in the Court at Pandharpur.

6] Apart from it, it must also be recorded that the husband has mischievously filed the application in the court at Pandharpur. As per the order produced by him, he was working at Navi Mumbai upto 31st July 2018, then, the statement made in the divorce petition that he was doing labour work in his village was a false one.

7] Considering these facts, the application deserves to be allowed. Hence, the order:-

- (i) The application is allowed.
- (ii) Hindu Marriage Petition No.185 of 2017 pending in the Court of Civil Judge, Senior Division, Pandharpur is hereby transferred to the Court of Civil Judge, Senior Division, Waduj;
- (iii) The Superintendent, Civil Judge, Senior Division, Pandharpur is directed to transmit the case papers relating to the above matter to Waduj court at the earliest;
- (iv) Parties to appear before Waduj Court on 15th October 2018. Learned Civil Judge, Senior Division Waduj shall try the matter with

the application under section 9 of Hindu Marriage Act being Application No.127 of 2017 together.

(ARUN MADHAV DHAVALÉ, J.)