

MISC. CIVIL APPLICATION ST. NO. 7861 OF 2018

Versus

■ ■ ■ ■ ■ ■

■ ■ ■ ■ ■ ■

CORAM: MRS.MRIDULA BHATKAR, J.
DATED : APRIL 24 , 2018

P.C. :

1. This application is filed under Section 24 of the Code of Civil Procedure by the applicant/ wife for transfer of the Criminal Misc. Application No. 1814 of 2016 filed by the applicant/ wife under Sections 12, 14, 18, 19, 20, 22 and 23 of the Protection of Women from Domestic Violence Act, 2005, which is pending in the Court of Judicial Magistrate First Class, Pune, to be transferred to the Court of Judicial Magistrate First Class, Solapur and also transfer of the

Misc. Application No. 88 of 2018 filed by respondent no.1/husband under Section 6 of the Hindu Minority and Guardianship Act, 1956, which is pending in the District Court, Pune, to be transferred to the District Court, Solapur.

2. The learned Counsel for the applicant/wife submits that respondent no.1/ husband has filed Custody Petition No. 88 of 2018 in respect of his minor son, who is in the custody of the applicant/wife. The applicant/wife is taking care of her minor son, who is 9 years old. He further submits that as the applicant/wife has shifted to Solapur from Pune, the Criminal Misc. Application No. 1814 of 2016 filed by her in the Court of Judicial Magistrate First Class, Pune is to be transferred to the Court of Judicial Magistrate First Class, Solapur. So also the Custody Petition No. 88 of 2018 filed by respondent no.1/husband in the District Court, Solapur is to be transferred to the District Court, Solapur. He further submits that it is not possible for the applicant/wife to attend the Court dates at Pune when she is taking care of the child.

3. The learned Counsel for the respondents while opposing this application, submits that it is not possible for the respondents to

travel from Pune to Solapur to attend the Court dates. However, this Court by order dated 20th March, 2018 has stayed the proceedings of the Custody Petition by granting ad-interim relief in favour of the applicant/wife. He further submits that respondent no.1/ husband is a professor and he will have a summer vacation and want access to meet his minor son during the summer vacation.

4. The learned Counsel for the applicant/wife submits that respondent no.1/husband is treated child with cruelty and taught him all bad habits and, therefore, giving access to respondent no.1/ husband to meet the child will adversely affect the physiology of the child. He relies on the medical reports of the child especially the report of psychologist. He further submits that two NOCs were filed against respondent no.1/ husband. Respondent no.1 was not behaving properly with the child. He further submits that let the application of the access or custody be decided by the District Court, Solapur.

5. Heard submissions. Considered the record produced before this Court. The applicant/mother is looking after 9 years old son

and both are staying at Solapur. Therefore, in the interest of the convenience and welfare of the child, I am of the view that the Custody Petition is to be transferred to the Family Court, Solapur from the District Court, Pune so there will not be any deficiency on the part of the applicant/mother to take care of the child. The D.V proceedings filed in the Court of Judicial Magistrate First Class, Pune is also to be transferred to the Family Court, Solapur so respondent no.1/ husband will have to attend one date in both the proceedings before one Judge only. Respondent no.1/husband may file application for interim access and it will be decided by the learned Judge of the Family Court, Solapur on merits. Since last six months, respondent no.1/father and his minor son could not meet each other. On the first date of appearance before the Family Court, Solapur, the learned Principal Judge, Family Court, Solapur shall be given an exclusive access to the respondent /father to meet his minor son for two hours during the day in the Court premises as per the order passed by the concerned Judge.

6. Both the parties to appear before the learned Principal Judge, Family Court, Solapur or the learned Judge to whom the matter is assigned on 14th May, 2015 at 11.00 a.m.

7. Criminal Misc. Application No. 1814 of 2016 pending in the Court of Judicial Magistrate First Class, Pune and Custody Petition No. 88 of 2018 pending in the District Court, Pune are hereby transferred to the Family Court, Solapur.

8. The Nazir/ Superintendent of the District Court, Pune is directed to transfer the Custody Petition No. 88 of 2018 to the Family Court, Solapur on or before 7th May, 2018.

9. The Nazir/ Superintendent of the Court of Judicial Magistrate First Class, Pune is directed to transfer the Criminal Misc. Application No. 1814 of 2016 to the Family Court, Solapur on or before 7th May, 2018.

10. Miscellaneous Civil Application is disposed of on the above terms.

(MRIDULA BHATKAR, J.)