

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

MISC. CIVIL APPLICATION (ST.) NO. 10486 OF 2018

Shweta Prasad Shukla	...	Applicant
V/s.		
Prasad Satish Shukla	...	Respondent

- Mr.Yuvraj P. Narvankar for the Applicant.
- Mr.Dharmendra Chavan for the Respondent.

CORAM : DR.SHALINI PHANSALKAR-JOSHI, J.

DATE : 26th JUNE, 2018.

P.C. :

1] Heard learned counsel for the Applicant and learned counsel for the Respondent.

2] This application is filed by the Applicant-wife under Section 24 of the Code of Civil Procedure for transfer of Family Petition No.A-474 of 2017 filed by the Respondent-husband for divorce under Hindu Marriage Act from the Family Court at Nashik to the Family Court at Kolhapur.

3] It is pointed out that earlier also the Respondent has filed P.A. No.309 of 2013 for divorce against the Applicant under Section

13(1)(a) of the Hindu Marriage Act in the Family Court at Nashik. As the said Court was not convenient for the Applicant, at that time also the Applicant has filed Misc. Civil Application No.199 of 2013 and this Court has allowed the said application vide its order dated 4th December, 2014 considering her difficulties in attending the Family Court at Nashik. After the said Petition was transferred to the Family Court at Kolhapur, the Respondent has simpliciter withdrawn the same by filing the pursis and the Family Court at Kolhapur has impose the costs of Rs.5,000/-. But again on the same ground, the Respondent has filed another Petition for divorce and that too again in the Family Court at Nashik.

4] The fact that earlier Petition for divorce was withdrawn with costs of Rs.5,000/- is not disputed by the Respondent. His only contention is that the order dated 4th December, 2014 was passed by this Court ex-parte and therefore, that cannot be a ground to transfer this Petition.

5] In my considered opinion, the order passed by this Court on 4th December, 2014 clearly goes to show that the Respondent has remained absent though duly served, hence now he cannot contend that the said order was passed ex-parte, therefore it cannot act as precedent.

6] Apart from that, the conduct of the Respondent of withdrawing the earlier Petition for divorce, when it was transferred to Kolhapur and again filing the Petition for divorce on the same ground in the Family Court at Nashik clearly makes out a ground to allow this application and transfer of the said divorce Petition to the Family Court at Nashik to the Family Court at Kolhapur.

7] Even otherwise also, the distance between Kolhapur and Nashik is more than 450 kms and considering that the Applicant being a lady has to travel such a long distance on each and every date, it would be necessary to allow this transfer application and transfer the said proceeding to the Family Court at Kolhapur.

8] The contention raised by the Respondent that he is ready to pay her traveling expenses, cannot alleviate the sufferings and difficulties that she is subjected to on account of travel on each and every date of the said proceedings to Nashik from Kolhapur.

9] As regards the submission of learned counsel for the Respondent that in a Criminal Case No.1329 of 2013 filed by the father of the Respondent against the Applicant in the Court of Judicial Magistrate, First Class at Nashik, she is attending at Nashik and the alleged difficulty cannot be a ground to transfer the divorce Petition, it

can be seen that in the said proceedings father, brother and mother of the Applicant are also accused and therefore, she is having their company while traveling but so far as divorce Petition is concerned, she has to travel alone.

10] Hence, this Civil Application is allowed. Family Petition No.A-474 of 2017 pending in Family Court at Nashik is transferred to the Family Court at Kolhapur.

11] Registry to communicate this order to the concerned Courts accordingly.

[DR.SHALINI PHANSALKAR-JOSHI, J.]