

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

**MISC. CIVIL APPLICATION NO. 146 OF 2018**

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| Anita Ramu Singh  | ... | Applicant  |
| V/s.              |     |            |
| Ramu Deepak Singh | ... | Respondent |

- Ms.Sandhya Mailagir i/b. Ms.Neesha Mailagir for the Applicant.
- Mr.Bhavesh V. Magam for the Respondent.

**CORAM : DR.SHALINI PHANSALKAR-JOSHI, J.**

**DATE : 16<sup>th</sup> JULY, 2018.**

**P.C. :**

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

2] This Application is preferred under Section 24 of the Code of Civil Procedure (*for short, "C.P.C."*) for transfer of the Marriage Petition No.494 of 2017 filed by the Respondent in the Court of Civil Judge, Senior Division, Thane to the Court of Civil Judge, Senior Division, Nagpur.

3] The Applicant is the wife of the Respondent, their marriage having taken place on 21/04/2007. There are two children born out of the wedlock viz. daughter by name Khushi and son by name Harsh,

who are at present about the age of 9 and 8 years respectively. After the marriage, Respondent went to USA. Applicant continued to reside with her children at Bhayendar, District Thane in the premises taken on rent by the Respondent. It is her case that when the Respondent returned from America, on 23/08/2015 after the meeting with the family members, the Respondent assaulted her brutally with iron road and locked her in room. Thereafter, on 30/08/2015, the Applicant's brother took her to the Nagpur at their home. She has also filed a complaint about the said incident at Kanhan, Nagpur.

4] In this backdrop, when the Respondent has filed this petition for 'dissolution of marriage' at Thane, she is finding it difficult to attend the said proceedings in the Court at Thane, in view of apprehension of danger to her safety and also as her children are studying in Nagpur and the distance between Nagpur and Thane is about 900 km one way. Hence, she has requested for transfer of the Marriage Petition No.494 of 2017 filed by the Respondent for dissolution of marriage to the Court at Nagpur.

5] This application is strongly resisted by the Respondent vide his "Affidavit-in-Reply" contending *inter-alia* that he is having the responsibility of his old parents. His father is suffering from medical ailment and therefore, it may not be possible by him to attend the

Court at Nagpur. Moreover, the witnesses in the said petition will also be from Thane and they will face the difficulty, if they are required to attend in the Court at Nagpur.

6] It is further submitted that Respondent had taken the premises in Bhayendar on monthly rent and he is ready to provide the said accommodation to the Applicant. Therefore, there is no question of her suffering any inconvenience or hardship, if she is required to attend the Court at Thane. Further, it is urged that the Respondent is also ready to bear the travelling expenses and the accommodation charges of the Applicant and if required, the travelling expenses of the escort for her while travelling from Nagpur to Thane. The Respondent has therefore prayed for dismissal of this application.

7] In support of his submission, learned counsel for the Respondent has placed reliance on the judgment of the Hon'ble Apex Court in the case of *Arnita Das V/s. Shijit Das*<sup>1</sup> wherein more or less in the similar facts, according to learned counsel for the Respondent, the Hon'ble Apex Court has rejected such transfer application holding that if the Respondent is ready to pay all the travelling and stay expenses of the Petitioner and her companion for each and every visit when the Petitioner is required to attend the Court at Delhi, then there is no

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<sup>1</sup> (2006) 9 SCC 197

requirement of transferring the said proceeding from Delhi to the place where she was residing. In the said case also, the grievance raised that the Petitioner had a small child of 6 years and she was required to attend to him, was dealt with, by observing that her parents can look after the said child and therefore, that contention was also not accepted for transfer of the petition.

8] Here, in the case, the averments in the application however show that the Applicant is constrained to reside with her brother at Nagpur. There is nothing on record to show that she is having the parents or any other members in the family who can look after the children in her absence. Moreover, she is having two school going children who are attending the school at Nagpur. The distance between Nagpur and Thane is also about 900 km one way and therefore, it normally takes two days journey by train. Her brother may not be in a position to accompany her on each date, if it consumes four days together for attending one date and if she has to attend several such dates in order that the matter may be amicably resolved with councillor and if not, thereafter for the purpose of giving evidence in the Court. Hence, the inconvenience and difficulty which she is going to suffer are far more than the inconvenience and the difficulty which the Respondent may suffer.

9] As regards the contention of the Respondent that he is ready to provide her accommodation, in my considered opinion, that cannot solve the issue as she cannot leave her children at Nagpur and stay over in Bhayendar. Moreover, it is submitted by learned counsel for the Applicant that the premises at Bhayendar are already given up and the allegation in the application show that she was brutally assaulted in the said premises, while was residing at Bhayendar and hence, her brother has took her to the Nagpur. Therefore, there is also an apprehension of the danger to her safety. In such situation, calling upon her to attend each and every date at Thane when she is residing at Nagpur will not only cause the difficulty and inconvenience but she will not be able to prosecute said proceedings effectively. Mere payment of the accommodation charges or travelling expenses is not going to reduce her inconvenience or hardship. Therefore, this is in my considered opinion a fit case where the proceedings pending in the Court at Thane are required to be transferred to the Court at Nagpur.

10] It is requested by learned counsel for the Respondent that if the proceedings are to be transferred to the Nagpur, then the Respondent's request for exemption may be sympathetically considered by the trial Court at Nagpur, as Respondent is working in

the catering business and he may not be able to attend each and every date. Needless to state that, the trial Court will considered the said request sympathetically.

11] This Misc. Civil Application is accordingly allowed and following order is passed.

- (a) Marriage Petition No.494 of 2017 pending in the Court of Civil Judge, Senior Division at Thane is transferred to the Court of Civil Judge, Senior Division, Nagpur.*
- (b) Registry to inform the concerned Courts and do the needful accordingly.*

**[DR.SHALINI PHANSALKAR-JOSHI, J.]**