

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

MISC. CIVIL APPLICATION NO.240 OF 2018

Mayuri Sachin Chavan @	
Mayuri Prabhakar Jadhav	... Applicant
Versus	
Sachin Balaso Chavan	... Respondent

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Ms Shital Ubale i/b R. V.Bansode for the Applicant.
None for the Respondent.

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CORAM : SANDEEP K. SHINDE, J.
DATE : 12th FEBRUARY, 2019.

P. C.:

1. It is an application under Section 24 of the Code of Civil Procedure, 1908 filed by the wife, seeking transfer of the proceedings in Hindu Marriage Petition No.32 of 2018 from the Court of Civil Judge, Senior Division, Satara to the Court of Civil Judge, Senior Division, Malshiras, taluka Malshiras, District Solapur.

2. Notice was issued to the respondent. Bailiff report shows that the respondent was served by substituted service on 26th November, 2018.

3. Heard learned Counsel for the applicant. None appears for the respondent.

4. Hindu Marriage Petition is filed by the respondent, for Restitution of Conjugal Rights in the Court of Civil Judge, Senior Division, Satara. It is applicant's case that her marriage is void for her valid consent and therefore, has filed Hindu Marriage Petition No. 134 of 2015 for the dissolution of marriage in the Court of Civil Judge, Senior Division, Malshiras, taluka Malshiras District Solapur.

5. I have perused the Marriage Petition filed by the applicant, wherein it is alleged that she was subjected to sexual abuse and forced to perform marriage. She reported the incident on 17th December, 2015 to the Police and crime was registered against the respondent under Section 354(A) read with 34 of I.P.C. The applicant therefore apprehends danger to life if she travels to Satara and thus seeks transfer of the proceedings of Restitution of Conjugal Rights filed by her husband from Satara to Solapur with further direction to tag said petition with her petition i.e. H.M.P. No. 134 of 2015.

6. I have perused the Marriage Petition filed by the applicant. She sought dissolution of marriage which was performed under duress. The allegations against the husband *prima-facie* show that she sexually abused before the marriage and was forced to

perform marriage against her will. It is under these circumstances, soon after the marriage she has filed the petition for dissolution of marriage in October, 2015 for dissolving her marriage allegedly performed on 4th September, 2015. That even otherwise, petition filed by the husband for Restitution of Conjugal Rights is later in point of time at Satara which is at the distance of about 150 kms from Solapur.

7. Thus, taking into consideration the facts aforesaid and the fact that though the respondent was duly served he chose not to participate in these proceedings.

8. The Supreme Court as well as this Court in catena of judgments has consistently taken a view that, while considering an application under Section 24 of the Code of Civil Procedure, 1908, convenience of the wife is required to be considered.

9. I therefore pass the following order:

- (i) The learned Civil Judge, Senior Division, Satara is directed to transfer the papers and proceedings in Hindu Marriage Petition No.32 of 2018 to the Court of Civil Judge, Senior Division, Malshiras, taluka Malshiras District Solapur.

- (ii) The parties as well as the learned Civil Judge, Senior Division, Satara to act on authenticated copy of this order.
- (iii) Both the parties are directed to appear before the learned Civil Judge, Senior Division, Malshiras, taluka Malshiras District Solapur on 20th March, 2019.
- (iv) The Miscellaneous Civil Application is allowed in the aforesaid terms. No order as to costs.

(SANDEEP K. SHINDE, J.)