

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

MISC. CIVIL APPLICATION No. 54 OF 2018

Pooja Manohar Bhosale	...Applicant
Vs.	
Manohar Dagadu Bhosale	...Respondent

Mr. Shankar Katkar a/w. Ms. Manisha Devkar for Applicant
Mr. Sachin Chandan i/b. R.S. Jadhav for Respondent

CORAM: K.K. TATED, J.

DATED : JUNE 4, 2019

P.C. :

1. Heard learned counsel for the parties.
2. By this application under Section 24 of the Civil Procedure Code, the Applicant wife is seeking direction to transfer of Divorce Petition No. A 947 of 2017 pending before the Learned Family Court at Bandra, Mumbai filed by the Respondent husband under section 13-(1) (i-a) of the Hindu Marriage Act, 1955 to the file of Learned Civil Judge, Senior Division at Pandharpur, Dist. Solapur.
3. Learned counsel for the Applicant submits that the Applicant is residing at Village Wadegaon, Taluka Sangola, Dist. Solapur. He submits that there is no direct train from Village Wadegaon to Mumbai. He submits that the distance between the Village Wadegaon to Mumbai is more than 500 kilometers. He submits that apart from the distance, the Applicant is looking after her

minor child, aged about 2 years. He submits that to attend the matter at Mumbai, she has to leave her home, at least for 3 to 4 days along with the minor child, which is very difficult for her. Therefore, in the interest of justice, this Hon'ble Court be pleased to transfer the Divorce Petition No. A 947 of 2017 filed by the Respondent to the Court at Pandharpur. He further submits that even the Applicant also filed Hindu Marriage Petition No. 126 of 2017 before the Civil Judge, Senior Division, Pandharpur under Section 9 of the Hindu Marriage Act, which is pending for hearing and final disposal. He submits that if the present application is not allowed, irreparable loss will be caused to the Applicant.

4. On the other hand, the learned counsel for the Respondent vehemently opposed the present application. He submits that the Applicant is in military service, working as Soldier. At present, he is posted in Rajasthan State and, therefore, it is not possible for him to attend each and every date at Pandharpur. He submits that the petition filed by him in the Family Court at Bandra is pending for recording of evidence. Apart from that, the Applicant has filed more 7 to 8 cases against the Respondent husband at Sangola, Dist. Solapur. He further submits that if the matter is transferred to the Pandharpur Court, then the hearing of that petition be expedited.

5. During the course of arguments, learned counsel Mr. Shankar Katkar for the Applicant made a statement before this Court that, the Applicant undertakes to withdraw the criminal

case No. 590 of 2016 filed before the Civil Judge, Junior Division and JMFC at Malshiras, Dist. Solapur under Section 12 of the Protection of Women and Children from the Domestic Violence Act. Statement is accepted.

6. I heard both the sides at length. It is to be noted that in the present proceeding, the Respondent filed Divorce Petition No. A 947 of 2017 in the Family Court at Bandra, Bombay for divorce and the same is pending for hearing. On the other hand, the Applicant wife also filed Hindu Marriage Petition No. 126 of 2017 on 6th July, 2017 in the Court of Civil Judge, Senior Division, Pandharpur under Section 9 of the Hindu Marriage Act. The Applicant being a lady and as she has to take care of her minor child, aged about 2 years and the distance between Mumbai to her place Village Wadegaon, Taluka Sangola, Dist. Solapur is more than 500 kilometers and as there is no direct train facility, I am of the opinion that the Applicant has made out a case for allowing the application. But at the same time, in the interest of both the parties, it is necessary to hear the petitions filed by the Applicant wife under Section 9 of the Hindu Marriage Act as well as the divorce petition filed by the Respondent husband together and are required to be decided as early as possible. Hence, following order:

ORDER

- (A) Misc. Civil Application is allowed in terms of prayer clause
(a) which reads thus:

“a) This Hon'ble Court may be pleased to issue appropriate writ, order or direction and/or direction to transfer the matrimonial proceedings bearing Divorce Petition No. A-947 of 2017 pending before Learned Family Court at Bandra, Mumbai to the file of Learned Civil Judge (Senior Division) at Pandharpur, Dist. Solapur in the interest of justice”.

(B) The Learned Civil Judge, Senior Division at Pandharpur, Dist. Solapur is directed to hear the Divorce Petition No. A-947 of 2017 filed by the Respondent Husband and also Hindu Marriage Petition No. 126 of 2017 filed by the Applicant Wife under Section 9 of the Hindu Marriage Act together and decided as early as possible, but, in any case, on or before 31st December, 2019.

(C) Applicant is permitted to withdraw the criminal proceeding bearing No. 590 of 2016 filed by her before the Civil Judge, Junior Division and JMFC at Malshiras, Dist. Solapur. The same to be done as early as possible within a month and intimate in writing to other side.

(D) No order as to costs.

(K. K. TATED, J.)