

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

MISC. CIVIL APPLICATION NO. 71 of 2019

Komal Nikhil Hadke

..... Applicant.

Vs.

Nikhil Chakradhar Hadke

..... Respondent.

.....
Mandviwala i/b. Jay & Co. For the Applicant.
K. M. Jeena for the Respondent.

.....

CORAM : K.K.TATED, J.
DATED : AUGUST 2, 2019

P.C.

- 1 Heard Learned Counsel for the Parties.
2. By this Misc. Civil Application under Section 24 of the Civil Procedure Code, the Applicant wife is seeking transfer of the Marriage Petition No. 273 of 2018 filed by the Respondent husband for divorce under Section 13 of the Hindu Marriage Act, 1955 before the Civil Judge, Senior Division at Panvel to the Family Court at Nashik for hearing and final disposal on its own merits.
3. The Learned Counsel for the Applicant submits that, the Applicant is staying at Nashik. She has already filed application under Section 12, 18, 19, 20, 21, 22 and 23 of the Protection of Women from Domestic Violence Act on 2nd July, 2018, Application under Section 125(1) of the Civil Procedure Code for maintenance on 10th August, 2018, Marriage Petition under Section 9 of the Hindu Marriage Act

for Restitution of Conjugal rights on 31st July, 2018 at Nashik. She submits that, in these matters the Respondent is attending each and every date. She submits that the Respondent husband filed Marriage Petition No. 273 of 2018 before the Civil Judge, Senior Division at Panvel under Section 12(1)(c) and (iii) of the Hindu Marriage Act, 1955 on 3rd July, 2018. She submits that it is very difficult for the Applicant to travel from Nashik to Panvel on each and every date to attend the matter filed by the Respondent. She submits that the distance between Nashik to Panvel is more than 200-220 Kms and it takes atleast 8-9 hours. She further submits that the Applicant does not have any facility at Panvel. Therefore, it is very difficult for the Applicant to stay at Panvel and defend the matter to protect her rights. She submits that, in any case the Respondent is attending matters at Nashik from time to time. Therefore in the interest of justice this Hon'ble Court be pleased to transfer the Petition filed by the Respondent at Panvel to the Family Court at Nashik for hearing and final disposal on its own merits. She submits that, if the application is not allowed irreparable loss will cause to the Applicant.

4 On the other hand, the Learned Counsel for the Respondent vehemently opposed the present application. He submits that earlier the Applicant was serving at Mumbai, she knows this city very well. So that she can travel alone also. He further submits that the entire cause of action arose at Panvel. Therefore there is no question of transferring the Petition from one place to another place. He submits that if the matter is transferred, it will be very difficult for Respondent to

attend the matter at Nashik Court. Therefore, in the interest of justice, this Hon'ble Court be pleased to dismiss the present application with costs.

5. I heard both sides at length. It is to be noted that in the present proceeding, the Applicant is residing at Nashik and the distance between Nashik to Panvel is 200-260 Kms. It takes atleast 8-9 hours journey. Apart from that, other petitions filed by the Applicant wife under Section 9 of the Hindu Marriage Act, under Section 125 of the Criminal Procedure Code and the application under the Protection of Women from Domestic Violence Act, 2005 are pending for hearing on its own merits before the court at Nashik. In those matters the Respondent is attending each and every date from time to time.

6. Considering these facts I am of the opinion that the Petition filed by the Respondent is required to be transferred from Panvel to Nashik for hearing and final disposal on its own merits. It is made clear that the Respondent husband can approach by way of application before the court at Nashik, to hear all these matters on the same date. So that it will be convenient for him to attend at Nashik Court. In view of these facts, the following order is passed:

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

“a. That this Hon'ble Court may be pleased to transfer Marriage Petition No. 273/2018 pending before the Ld. Civil Judge, Senior Division at Panvel to Ld. Family Court at Nashik, Dist. Nashik.”

- b. The Family Court at Nashik is directed to hear all the matters between the parties i.e. application filed by the wife under the Protection of Women from Domestic Violence Act, 2005 application filed under Section 125(1) of Criminal Procedure Code for maintenance and Marriage Petition No. 489/2018 filed under Section 9 of the Hindu Marriage Act, 1955 together.
- c. The Misc. Civil Application stands disposed of accordingly.
- d. No order as to costs.

(K.K.TATED, J.)