

DDR

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

MISC. CIVIL APPLICATION NO. 80 OF 2019

Shubhada Mahesh Deshmukh	..Applicant
vs.	
Mahesh Basavraj Deshmukh	..Respondent

....
Ms. Rutuja Chakor i/b. Shri S.S. Thorat for applicant.
Shri Girish Paryani i/b. A & G. Legal Ass. For respondent.

....
CORAM : M.S.KARNIK, J.

DATE : 11th OCTOBER, 2019

P.C. :

Heard learned counsel for the applicant and learned counsel for the respondent.

2. This is an application by the applicant wife for transfer of the proceedings filed by the respondent husband before the Civil Judge Senior Division, Kalyan to the Family Court at Solapur. The respondent husband has filed marriage Petition before the Civil Judge Senior Division, Kalyan for restitution of conjugal rights. The marriage was solemnised on

22nd February, 2014 at Solapur. As a result of some marital discord parties started staying separately. The couple has a son aged about 3 years. The son is staying with the applicant at Solapur.

3. Learned counsel for the applicant submitted that it is inconvenient for the applicant to travel Kalyan which is at a distance of 400 kilo meters from Solapur. Moreover, she has to look after her son who is 3 years old. It is also submitted that the applicant's father is suffering from paralysis. The applicant has filed the proceedings under the Protection of Women from Domestic Violence Act, 2005 before the J.M.F.C., Solapur.

4. Learned counsel for the respondent stated that it will be inconvenient for the respondent husband as well to attend the proceedings at Solapur as he is suffering from Loco-motor Disability and the diagnosis in his case report of Post Polio Residual Paralysis due to which he is certified as 40% permanent disabled in relation to his (part of body). In the affidavit in reply it is stated that the respondent is suffering from Loco-motor

disability and cannot carry out his personal activities without any one's help and also not financially stable. He has stated that he is unemployed but will bear the travelling expenses of the applicant to travel from Solapur to Kalyan.

5. Heard. It is stated by learned counsel for the applicant that the respondent has attended Solapur on a couple of occasions. This an unfortunate case which would result in inconvenience to both the parties. The respondent is suffering from Loco-motor disability and needs help to travel. However, considering that the applicant has a 3 years old son residing with her and even her father is suffering from paralysis and moreover, considering the distance between Kalyan and Solapur which is stated to be 400 kilo meters, I propose to pass following order :

ORDER

- i. The application is allowed in terms of prayer clause (a).
- ii. The applicant undertakes not to insist for

the appearance of the respondent except when his presence is needed for recording of his evidence.

iii. Further the applicant undertakes not to apply for adjournment when the respondent appears before the Family Court.

iv. The Family Court is requested to decide the proceedings expeditiously preferably within a period of 1 year from today.

6. The application is allowed in terms of prayer clause (a) and disposed of as such.

(M.S.KARNIK, J.)

Diksha
Rane

Digitally signed
by Diksha Rane
Date: 2019.10.12
14:44:12 +0530