

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

MISC. CIVIL APPLICATION NO. 50 OF 2019

Sunita Harish Phadtare

..... Applicant.

Vs.

Harish Hanmant Phadtare

..... Respondent.

.....
M. Deshmukh i/b Atul N. Katkar for the Applicant.
Paras Yadav 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 is seeking transfer of Hindu Marriage Petition No. 930 of 2016 filed by the Respondent husband, under Section 13(1) (ia)(ib) of the Hindu Marriage Act, 1955 for divorce before the Civil Judge, Senior Division, Pune to the Learned Judge, Family Court at Thane for deciding on its own merits.

3. The Learned Counsel for the Applicant submits that, it is very difficult for the Applicant to attend the matter at Pune Court along with her minor child. He submits that, her child is studying in 5th Standard. No one is at home. Therefore, it becomes impossible for the Applicant to attend the matter on each and every date

at Pune. He further submits that apart from that, the Applicant also filed OMA No. 46 of 2016 in the Court of J.M.F.C. at Thane under Section 12 of the Protection of Women from Domestic Violence Act, 2005 on 18th April, 2016 and the same is pending for hearing on its own merits. He submits that subsequently the Respondent has filed Hindu Marriage Petition No. 930 of 2016 at Pune on 4th August, 2016. Therefore, in the interest of justice, this Hon'ble Court be pleased to transfer the petition filed by the Respondent before the Court at Pune to the Court at Thane for hearing and final disposal on its own merits.

4. On the other hand, the Learned Counsel for the Respondent vehemently opposed the present application. He submits that the Respondent is working in Military and presently he is posted in Rajasthan. He submits that the Respondent has his relatives at Pune. Therefore, it is convenient for him to attend the matter at Pune only. He submits that, if the matter is transferred from Pune to Thane then it will become very difficult for the Respondent to attend on each and every date. He further submits that the matter is kept for filing affidavit of evidence at Pune Court. Therefore, there is no question of allowing the present application.

5. I heard both sides at length. It is to be noted that the Applicant has to maintain her minor child of 11 years. To travel with child on each and every date from Thane to Pune is very difficult for the Applicant wife. Apart from that the Applicant filed matter under Section 12 of the Protection of Women from

Domestic Violence Act, 2005 on 18th April, 2016 and, thereafter, the Respondent husband filed Hindu Marriage Petition No. 930 of 2016 on 4th August, 2016. Considering the fact that the Respondent filed subsequently the matter at Pune, the same is required to be transferred from Pune Court to Thane Court for hearing and final disposal on its own merits. Hence, the following order:

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

b. This Hon'ble Court be pleased to order to transfer the Hindu Marriage Petition No. 930 of 2016 from the Court of Civil Judge, Senior Division, Pune and transfer the same to the Ld. Judge, Family Court, Thane to decide in accordance with law.

b. The Misc. Civil Application stands disposed of accordingly.

c. No order as to costs.

(K.K.TATED, J.)