

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

MIS. CIVIL APPLICATION (ST) NO.8013 OF 2018

Smt. Priyanka Swapnil Tayade ... Applicant
Vs
Shri Swapnil Pandit Tayade ... Respondent
...
Mr. Sachin Gite for the Applicant.
None for the Respondents.

CORAM : SANDEEP K. SHINDE J.

DATE : 7 FEBRUARY, 2019

P.C. :

It is an application under Section 24 of the Code of Civil Procedure, 1908.

2 The applicant-wife seeks to transfer of proceedings in the Marriage Petition No. 299 of 2017 from the Court of Civil Judge, Senior Division at Bhusaval to the Family Court at Nashik filed by her husband.

3. Though the respondent-husband was served in June, 2018, he opted not to appear in these proceedings and thus hearing was deferred from time to time. Today, at the first call, respondent was absent and, therefore, matter was kept back. Even on the

second call, respondent was absent and, therefore application is taken for hearing.

4. Heard the learned Counsel for the applicant-wife.

5. Applicant is residing at Nashik and her marriage was solemnised with the respondent on 20th March, 2016 and out of the said wedlock baby-girl was born on 1st March, 2017. The respondent is residing at Bhusaval, which is about 300 kms away from Nashik. It is submitted that, the applicant-wife has filed proceedings against the respondent and her in-laws under the provisions of the Domestic Violence Act in September, 2017 in the Court of Judicial Magistrate First Class at Nashik and to counter it, husband has filed the subject Marriage Petition for restitution of conjugal rights in the Court of Civil Judge Senior Division at Bhusaval.

6. The distance between Nashik and Bhusaval is 300 kms. A baby-girl of two years old is with the applicant. A fact cannot be ignored that the applicant has no source of income and she is living with her parents and dependent on them. That if proceedings are not transferred from Bhusaval to Nashik, applicant shall suffer immense

inconvenience. On the other hand, respondent is gainfully employed with Zilla Parishad.

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

7. In view of the facts aforesaid, the following order is passed :

(1) Application is allowed.

(2) The learned Joint Civil Judge Senior Division, Bhusaval is directed to transmit papers and proceedings of Marriage Petition No. 299 of 2017 to the Court of the Learned Judge, Family Court, Nashik at Nashik.

(3) The parties are directed to appear before the Learned Family Court at Nashik on 13th March, 2019 at 11.00 a.m.

(4) The Application is disposed of.

(SANDEEP K. SHINDE, J.)