

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

MISC. CIVIL APPLICATION NO. 122 OF 2019

Shweta Shivaji Bodkhe

..... Applicant.

Vs.

Shivaji Ramrao Bodkhe

..... Respondent

.....
Mr. Vivek H. Kyadal for the Applicant.

Mr. Ravindra S. Pachundkar for the Respondent.

.....

**CORAM : K.K.TATED, J.
DATED : JULY 17, 2019**

P.C.

1 Heard Learned Counsel for the parties.

2. Advocate Mr. Pachundkar appearing on behalf of the Respondent filed affidavit in reply dated 16th July, 2019. The same is taken on record.

3. By this Application under Section 24 of the Civil Procedure Code, the Applicant wife is seeking transfer of the Hindu Marriage Petition No. 612 of 2018 filed by the husband under Section 13(1)(ia) of the Hindu Marriage Act, 1955 for divorce before the Civil Judge, Senior Division, Washim to the Learned Civil Judge, Senior Division, Pune for hearing and final disposal on its own merits.

4. The Learned Counsel for the Applicant submits that the Applicant is residing at Pune. He submits that even the Applicant filed FIR bearing No. 0485 of

2018 dated 14th October, 2018 against the Respondent and his family members at Pune under Section 498(A) of the Indian Penal Code. He further submits that the said matter is pending for investigation before the concerned Police Station. He submits that, the distance between Pune and Washim is more than 460 Km. To travel from Pune to Washim, it takes more than 10 hours by bus. He submits that there is no direct train available from Pune to Washim. He submits that it is very difficult for the Applicant to travel more than 10-12 hours for each and every date to attend the matter at Washim. Therefore, in the interest of justice, this Hon'ble Court be pleased to transfer the Petition filed by the Respondent for hearing and final disposal on its own merits to the Court at Pune.

5. On the other hand, the Learned Counsel appearing on behalf of the Respondent husband vehemently opposed the present application. He submits that the Applicant is residing at Village Bhapur, Tal. Risod Dist. Washim. In support of this contention, he relies on 7/12 extract. It stands in the name of the Applicant's father. He further submits that the Respondent husband is staying at the said village along with his family members. Therefore, it is very difficult for him to attend the matter, if it is transferred from Washim to Pune. He submits that though the Applicant is staying at the same Village, the Applicant filed the present application for transfer of matter to the Pune, just to harass the Respondent. He further submits that just because of convenience of the Applicant, matter can not be transferred from one place to another place. In support of this

contention, he replies on the Judgment of the Calcutta High Court in the matter of *Dipika Agarwal @ Dipika Khaitan Vs. Rishi Agarwal in C.O. No. 622 of 2019 with C. O. No. 1094 of 2019 dated 4th July, 2019*. He relies on para 5 of the said Judgment which read thus:

“In my view, simply because the wife feels inconvenient to attend Court at Alipore is no ground for withdrawal of Matrimonial Suit from the Court at Alipore and to transfer it in the district of Birbhum. From the averments it does not appear that there was no cause of action for filing the Matrimonial Suit in the Court at Alipore. Therefore, the ground of inconvenience pleaded by the petitioner/wife has to be weighed with other attending circumstances. I have already held that Act VIII case cannot be transferred to Birbhum. Therefore, the wife has to contest the proceeding in the Court at Alipore. The other grounds taken by the wife that a police case is pending in Rampurhat cannot be the sole ground for transfer of the Matrimonial Suit in the court at Birbhum. The husband/opposite party is one of the accused persons in the said case. However, from the summons it appears that such P.S. case initiated after the Matrimonial Suit has been filed before the Alipore Court. That apart the petitioner has also not disclosed before which Court the P.S. case has been registered and pending and under which sections of the Indian penal code such complaint has been filed. That being so such statement in the Section 24 application need not be taken account of.”

On the basis of these submissions, the learned counsel for the Respondent submits that, there is no substance in the present application and the same is required to be dismissed with cost. He further submits that if the matter is transferred from one place to another place i.e. Washim to Pune, the Applicant wife may be directed to pay travelling expenses to the husband.

6. I have heard both sides at length. It is to be noted that the Apex Court in the matter of *Krishna Veni Nagam vs. Harish Nagam reported in (2017)4 S.C.C. 150 and in the matter of Bharatiben Ravibhai Rao Vs. Ravibhai Govindbhai Rao reported in (2017)6 S.C.C. 785* held that convenience of the wife to be considered for transferring the matter from one place to another place. In the present proceeding the Applicant is residing at Pune. To travel from Pune to Washim, it takes more than 12 hours by bus. The distance between Pune and Washim is more than 460 K.M. There is no direct train available. It is to be noted that, Respondent husband not placed on record any documentary proof to show his income. Therefore, there is no question of directing the Applicant to pay travelling expenses to the Respondent. The same is rejected.

7. Considering these facts, I am of the opinion that the Applicant has made out case for allowing this application. Hence, the following order:

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

“b. Be please to transfer Hindu Marriage Petition No. 612/2018, pending before ld. Civil Judge, Senior Division, Washim to ld. Civil judge, Senior Division, Pune.”

b. No order as to costs.

C. Parties to act upon authentic copy of this order.

(K.K.TATED, J.)