

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

MIS. CIVIL APPLICATION NO.107 OF 2018

Sou. Rajshree Y. Navase

... Applicant

Vs

Shri Yogesh D. Navase

... Respondent

...

Mr. B.A.Lavate for the Applicant.

None for the Respondent.

CORAM : SANDEEP K. SHINDE J.

DATE : 25 JANUARY, 2019

P.C. :

It is an application under Section 24 of the Code of Civil Procedure, 1908 filed by the applicant-wife for transfer of the proceedings in Hindu Marriage Petition No.1613 of 2017 pending on the file of 3rd Civil Judge Senior Division, Kalyan to the Court of Civil Judge Senior Division, Panvel, District: Raigad. Notice issued to the respondent-husband was returned unserved with bailiff's remarks 'Respondent not found at the given address. Room was locked.' Vide order dated 6th December, 2018, the applicant-wife was permitted to effect service of notice by substitute mode. In pursuance thereto, notice was published in the newspaper 'Kokan Sakal' on 18th January, 2019.

The applicant-wife has filed affidavit in due compliance of the order dated 6th December, 2018 and placed on record copy of the paper publication. Affidavit is taken on record and marked 'X' for Identification.

2 Today, when the matter was called out, none appeared for the respondent-husband and thus, application is taken up for hearing.

3 The learned counsel for the applicant-wife has brought to my notice the order dated 8th September, 2017 passed by this Court in Miscellaneous Civil Application No.187 of 2017 which was filed by the applicant-wife seeking transfer of the proceedings in Hindu Marriage Petition No.82 of 2016 filed by husband against her in the Court of Civil Judge Senior Division at Nashik.

4 The applicant-wife is residing at Panvel. It is submitted that she has no source of income and living with her parents with minor daughter who is four years old. It is submitted that the applicant-wife has filed proceedings under the provisions of the Domestic Violence Act, in December, 2016 at Panvel and only thereafter on 19th December, 2017, her husband has filed Hindu

Marriage Petition for dissolution of marriage in the Court of Civil Judge Senior Division at Kalyan.

5 *The Respondent has chosen not to remain present and oppose this application. Admittedly, the applicant-wife is residing at Panvel. At her instance, proceedings filed by husband at Nashik were directed to be transferred at Panvel vide order dated 8th September, 2017. The respondent is an engineer and serving with private concern and presently residing at Badlapur.*

6 *Though the respondent is residing at Kalyan, he had filed Marriage Petition No.1613 of 2017 at Sinnar, District: Nashik. Proceedings were transferred to Panvel vide order dated 8th September, 2007. Thereafter, he has chosen to file proceedings against his wife at Kalyan. Thus, prima-facie, respondent is choosing the Courts which are not only inconvenient to his wife but to himself. This conduct of the respondent is sufficient to grant this application. Thus, considering the facts of the case and the conduct of the respondent, the application is allowed and the proceedings under the Hindu Marriage Petition No.1613 of 2017 filed by the respondent against the applicant-wife*

pending on the file of 3rd Civil Judge, Senior Division, Kalyan are directed to be transferred to the Court of Civil Judge, Senior Division, Panvel. Application is disposed of.

7 *Parties and their advocates shall appear before the Court of Civil Judge, Senior Division, Panvel on 11th February, 2019 at 11.00 a.m.*

8 *The Miscellaneous Civil Application is allowed in the aforesaid terms with no order as to costs.*

(SANDEEP K. SHINDE, J.)