

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

MISC. CIVIL APPLICATION NO. 224 OF 2018

<i>Mrs. Swapnali Amit Chavan</i>	<i>.....Applicant</i>
<i>V/s.</i>	
<i>Shri. Amit Ragho Chavan</i>	<i>....Respondent</i>

Mr. Indrajeet A. Bhosale, Advocate for the applicant.

Mr. Amit R. Chava, respondent in person.

CORAM : SANDEEP K. SHINDE, J.

Wednesday, 10th April, 2019.

P.C. :

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

2. *Applicant-wife seeks transfer of Hindu Marriage Petition No.1127 of 2017 from the Court of Civil Judge Senior Division, Kalyan to the Court of Civil Judge Senior Division at*

Ratnagiri. After hearing the Counsel for the applicant and the respondent-in-person, they were given sufficient time to explore the terms of settlement. However, settlement could not reach and therefore the Application is taken up for hearing.

2. The marriage of the applicant with the respondent was solemnised on 30th May, 2013 at Ratnagiri. Applicant is well-qualified and working as a lady Police Constable at Ratnagiri. That since November, 2013, she is residing at Ratnagiri with her parents. It appears, the family members tried to settle the dispute, however, amicable settlement could not be arrived at. Out of the said wedlock, a son was born on 15th May, 2014 who is under the care of the applicant. In the year 2007, husband has filed a petition for divorce at District Court, Kalyan.

3. The applicant-wife is seeking transfer of subject petition on the ground that, distance between Kalyan and Ratnagiri, to and fro, is 600 kms and would cause great inconvenience to attend the proceedings at Kalyan with her four

years child. It is her case that, there is nobody in the family who could accompany her to Kalyan. It is her case that, she is working in a police department as a Lady Constable and the office may not sanction leave, recurringly, for attending the proceedings at Kalyan. On the other hand, the respondent a qualified person is working in the Private Sector and no inconvenience would cause to him, if the Marriage Petition is transferred from the Kalyan Family Court to Ratnagiri.

4. Heard learned Counsel for the applicant and respondent in person. Perused the application and affidavit-in-reply filed by the respondent.

5. A fact cannot be ignored that a four year child is under the care of the applicant and if the petition is not transferred from Kalyan to Ratnagiri, she may have to attend the proceedings at Kalyan with her child by travelling about 600 kms distance to and fro. Moreover, since the applicant is attached to the Police force, she may not be able to attend the proceedings at Kalyan unless the leave is sanctioned. Thus,

taking into consideration the facts of the case and taking into consideration the law laid down by the Apex Court that the convenience of the wife is a factor to be taken into consideration while exercising the jurisdiction under Section 24 of the Civil Procedure Code, the Application is allowed and hence the following order :

(i) The learned Civil Judge Senior Division, at Kalyan shall transfer the papers and proceedings in Hindu Marriage Petition No. 1127 of 2017 to the Court of Civil Judge Senior Division at Ratnagiri.

(ii) The parties, as well as the, learned Civil Judge Senior Division, Kalyan to act on authenticated copy of this order.

(iii) The parties are directed to appear before the learned Civil Judge Senior Division, Ratnagiri on

Rane

5/5

*MCA-224-2018 (sr.6)
Wednesday, 10.4.2019*

19th June, 2019 at 11.00 a.m.

(iv) *The Miscellaneous Application is allowed
in the aforesaid terms. No orders as to costs.*

(SANDEEP K. SHINDE, J)