

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

MISC. CIVIL APPLICATION STAMP NO. 18153 OF 2018

Trupti Sudhir Shinde	... Applicant
Versus	
Sudhir Arjunrao Shinde	... Respondent

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Mr. Sharad V. Kulkarni for the Applicant.
Mr. Laxman Deshmukh i/b Mr. Pramod N. Patil for the Respondent.

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CORAM : SANDEEP K. SHINDE, J.
DATE : 1st MARCH, 2019.

P. C.:

1. Leave to amend is granted. Amendment be carried out forthwith.
2. Heard learned Counsel for the parties.
3. The applicant - wife seeks transfer of Marriage Petition No.A-53 of 2018 filed by her husband in the Family Court at Osmanabad/Civil Judge, Senior Division, Osmanabad to the Court of Civil Judge, Senior Division at Baramati, District Pune. The subject marriage petition is for dissolution of marriage filed by the respondent-husband.

4. Perused the affidavit-in-reply of the respondent dated 19th November, 2018.

5. The marriage was solemnised in August 2014 and a daughter was born in November 2015. The transfer is sought on the ground that the distance between Osmanabad and Baramati through and fro is about 450 kms. and will cause inconvenience to the applicant to travel with her three year old daughter. The next ground is that she has no independent source of income and presently she is living with her parents. It is further pointed out that applicant's father died a year back and therefore, nobody is in her family to accompany from Baramati to Osmanabad. It is further contended that in March 2018 the applicant has filed the proceedings under the Domestic Violence Act against her husband for maintenance and such other reliefs at Baramati, which the respondent has to attend. It is contended that respondent is a Lecturer in the College and has independent source of income.

6. The application is opposed on the grounds :

- (i) that the respondent is suffering from Recurrent Renal Calculus and has been advised, avoid frequent travelling. In

support of this contention the respondent has placed on record a medical certificate issued by “Shri Chintamani Multispeciality Clinic” , discharge card, which shows he was admitted in the hospital on 21st November, 2017 and discharged on 22nd November, 2017;

(ii) that several criminal cases are filed against the father and uncle of the applicant at Baramati; the respondent therefore apprehends danger to her life and would contend that it may not be safe for her to travel and attend the proceedings in the Court at Baramati.

In support of this contention documents are placed on record. I have perused the same. Majority of such cases were filed against the father and/or uncle of the applicant either under Section 138 of the Negotiable Instruments Act. Thus, in my view the apprehension of the applicant is not well founded. That, even otherwise the applicant's father has expired a year before.

7. Learned Counsel for the respondent submitted that the respondent is willing to bare the expenses of traveling of the applicant and daughter. He submits that the proceedings under the Domestic Violence Act were filed, after the petition of dissolution of marriage was filed by him at Osmanabad. It is

submitted that no grounds are made out for exercising the jurisdiction under Section 24 of the Code of Civil Procedure. Therefore, application may be rejected.

8. It is not in dispute that distance between Baramati and Osmanabad through and fro is about 450 kms. The applicant's father has died a year before and there is nobody who would accompany her to travel at Osmanabad. That, even otherwise, she may have to take her three years daughter with her to Osmanabad, which will cause inconvenience to the applicant. That, even otherwise the applicant has no independent source of income and the apprehension of the respondent that it may not be safe for him to attend the Court at Baramati is not well founded.

9. In view of above, I pass the following order.

- (i) The learned Judge, Family Court at Osmanabad / Civil Judge, Senior Division, Osmanabad is directed to transfer the papers and proceedings in Marriage Petition No.A-53 of 2018 to the Court of learned Civil Judge, Senior Division, Baramati.
- (ii) The learned Civil Judge, Senior Division, Baramati

shall not insist the presence of respondent-husband unless it is absolutely necessary and shall ensure that least inconvenience is caused to the respondent, as he suffers from Recurrent Renal Calculus.

- (iii) The parties as well as the learned Judge, Family Court, Osmanabad / Civil Judge, Senior Division at Osmanabad to act on an authenticated copy of this order.
- (iv) Both the parties are directed to appear before the learned Civil Judge, Senior Division at Baramati on 29th March, 2019 at 11.00 a.m.
- (v) The Miscellaneous Civil Application is allowed in above terms and disposed of.

(SANDEEP K. SHINDE, J.)