

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

MISC. CIVIL APPLICATION NO. 288 OF 2018

Mrs. Pradnya @ Komal Kamalkishor

Nimje

.....Applicant

V/s.

Kamalkishor Premnath Nimje

....Respondent

* * * *

Mr. Adwait Bhonde, Advocate for the applicant.

None for the respondent.

CORAM : SANDEEP K. SHINDE, J.

Monday, 11th February, 2019.

P.C. :

1. It is an application under Section 24 Civil Procedure Code seeking transfer of proceedings in Hindu Marriage Petition No.11 of 2018 filed by the respondent-husband and pending in the Court of Civil Judge Senior Division at Bhandara to the Court of Civil Judge Senior Division, Pune.

2. It appears from the bailiff's report that, he is

attempting to keep himself away from the process of service, in as much as, his father had refused to accept the service. The earlier two reports indicate that his house was found locked and his neighbours did not disclose the whereabouts of the respondent or his family members. Besides, the applicant himself had served the respondent by private service and filed affidavit of service dated 16th January, 2019. Thus, in my view, the respondent-husband has been duly served. However, he has chosen to remain absent and thus I have proceeded to hear the applicant.

3. The respondent herein has filed Hindu Marriage Petition No.11 of 2018 for restitution of conjugal rights in the Court of Civil Judge Senior Division, Bhandara in January, 2018. I have perused the said Hindu Marriage Petition which shows atleast till 15th December, 2017 the respondent was living at Ghansoli, Navi Mumbai. It is submitted by the learned Counsel for the applicant that in December, 2017 when they were living together at Ghansoli, suddenly the respondent disappeared and therefore she had filed a missing complaint. It is further submitted that she has also filed proceedings under the Domestic Violence Act in the Court of Judicial Magistrate First Class at Vashi, New Bombay. It is further submitted that, the applicant

has also filed an application under Section 407 Criminal Procedure Code seeking transfer of the proceedings filed under the Domestic Violence Act from the Court of Judicial Magistrate First Class, Vashi to Judicial Magistrate First Class at Pimpri. It is further submitted that, distance between Bhandara to Pimpri is 790 kms. It is further submitted that, it is not possible and will cause great inconvenience to the applicant if the proceedings are not transferred from Bhandara to the Court of competent jurisdiction at Pimpri.

4. I have gone through the said Marriage Petition. It shows that the respondent was gainfully employed either at Pimpri or Mumbai upto December, 2017. The averments in the said Marriage Petition also disclose that, he was living with the applicant in the Village-Ghansoli upto December, 2017. It cannot be disputed that, the distance between Pimpri and Bhandara is more than 750 kms. A fact cannot be ignored that the applicant has filed proceedings under the Domestic Violence Act at Vashi of which she is seeking transfer to the Court at Pimpri, vide an application filed under Section 407 of Criminal Procedure Code.

5. Thus, taking into consideration the facts of

the case, in my view, if the application is not granted, it will cause great inconvenience to the applicant. On the other hand, the pleadings in the subject Marriage Petition, indicates that, upto December, 2017, the respondent was staying at Ghansoli, Thane and was gainfully employed either at Pimpri or Mumbai. Moreover, the respondent has chosen not to participate in the proceedings though he has been served.

6. Thus, taking into consideration the facts of the case, the application is granted in terms of prayer clause (b). Office is directed to issue appropriate writ to the Court of Civil Judge Senior Division, Bhandara to transfer the proceedings in Hindu Marriage Petition No. 11 of 2018 to the Court of Civil Judge Senior Division, Pune within three weeks from today.

7. The parties are directed to appear before the Court of Civil Judge Senior Division at Pimpri, Pune on 26th March, 2019 at 11.00 a.m.

8. With the above directions, the Misc. Civil Application stands disposed of.

(SANDEEP K. SHINDE, J)