

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

MISC. CIVIL APPLICATION (ST) No. 29359 OF 2018

Sau. Priyanka Harish Marathe ...Applicant
Vs.
Shri Harish Kishore Marathe ...Respondent

Mr. Manoj M. Badgujar for the Applicant
Mr. Rupeshkumar C. Bora for the Respondent

CORAM: K.K. TATED, J.

DATED : JUNE 19, 2019

P.C. :

1. Heard learned counsel for the parties.
2. By this application under Section 24 of the Civil Procedure Code, 1908, the Applicant wife is seeking transfer of the proceeding bearing Hindu Marriage Petition No. 169 of 2017 filed by the Respondent husband before the Civil Judge, Senior Division, Beed under Section 13(1) (i-a) of the of the Hindu Marriage Act for divorce to Ld. Civil Judge, Senior Divison, Kalyan, Dist. Thane.
3. Learned counsel Mr. Manoj Badgujar for the Applicant submits that the Applicant is unemployed. She is housewife. She hardly earns any income from the work. He submits that it is

very difficult for the applicant wife to travel from Ulhasnagar to Beed. He submits that there is no direct railway facility from Ulhasnagar to Beed. He submits that it is very difficult for the Applicant to travel alone to Beed to attend divorce petition filed by the Respondent on each and every date. He further submits that the Applicant also filed complaint bearing No. 227 of 2016 under sections 12, 18, 19, 20, 22 and 23 of the Protection of Women from the Domestic Violence Act, 2005 before the JMFC Court at Ulhasnagar and the same is pending for hearing on its own merits. He submits that in that proceeding, the Court directed the Respondent to pay monthly maintenance of Rs.3,500/- p.m. He submits that as on today, more than Rs.1,00,000/- is due and payable by the Respondent towards maintenance. He submits that because of financial constraints, it is not possible for her to attend the case filed by the Respondent husband at Beed Court. Hence, in the interest of justice, this Hon'ble Court be pleased to transfer the marriage petition No. 169 of 2017 filed by the Respondent husband from Beed Court to Kalyan Court. He submits that if

the application is not allowed, irreparable loss would be caused to the Applicant.

4. On the other hand, learned counsel Mr. Rupeshkumar Bora for the Respondent vehemently opposed the present application. He submits that as on today, the Respondent is in service of police force. He submits that it is very difficult for him to take leave from his department. He submits that Respondent's native place is Hingoli next to Beed. His parents are staying at Hingoli. He submits that if the matter is transferred from Beed to Kalyan Court, it will be very difficult for the respondent to attend each and every date. He submits that the respondent has good chance of success in the divorce petition. He submits that because of the conduct of the Applicant, the Respondent constrained to file the divorce petition under Section 13(1) (i-a) of the Hindu Marriage Act. He submits that the Respondent is ready and willing to bear the financial expenses of the Applicant for attending the matter at Beed Court. He submits that the Respondent undertakes to complete his evidence within time bound period so that the matter can be decided as

early as possible. On the basis of these submissions, the learned counsel for the Respondents submits that there is no substance in the present application and same is required to be dismissed with costs.

5. I heard both the learned counsels at length. It is to be noted that Applicant being a woman and is staying at Ulhasnagar, it is very difficult for her to travel alone at Beed. There is no direct train facility from Ulhasnagar to Beed. She has to travel by train to Aurangabad and thereafter from Aurangabad by bus or directly Ulhasnagar to Beed by bus and the same is overnight journey. Considering these facts and as the Applicant is unemployed, I am of the opinion that in the interest of justice, it will be necessary to transfer the Hindu Marriage Petition filed by the Respondent at Beed to the Court at Kalyan for hearing and final disposal.

6. Hence, following order:

(a) Application is allowed in terms of prayer clause (a), which reads thus:

“(A) Be pleased to transfer the proceeding bearing No.H.M.P. NO. 169 of 2017 filed by

the Respondent pending before the Civil Court, Senior Division, Beed to the Court of Ld. Civil Judge, Senior Division, Kalyan, Dist. Thane."

(b) Misc. Civil Application stands disposed of accordingly.

(K. K. TATED, J.)