

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION

MISC. CIVIL APPLICATION NO. 306 OF 2018

Mr. Rahul Shivaji Dumbre ... Applicant  
V/s.

Mrs. Pushpalata Rahul Dumbre ... Respondent

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Ms. Deepika Bafna i/b Anita Bafna for the Applicant.

Mr. Sachin Pawar for the Respondent.

**CORAM: K.K.TATED, J.**

**DATED : 03/09/2019**

**P.C.**

1 Heard learned Counsel for the parties.

2 By this Misc. Civil Application under Section 24 of Code of Civil Procedure, 1908, the Applicant husband is seeking transfer of Hindu Marriage Petition No. 298 of 2018 filed by the Respondent wife under Section 9 of the Hindu Marriage Act for restitution of conjugal rights against the Applicant before the 3<sup>rd</sup> Joint Civil Judge, Senior Division, Khed at Pune to the Civil Judge, Senior Division, Kalyan Court at Kalyan.

3 The learned counsel for the Applicant submits that though the Respondent is staying at Dombivali, District Thane, she intentionally filed the petition at Khed by giving address of her grandfather.

4 The learned counsel for the Applicant submits that Respondent's passport bearing No. L5965711 shows the

address of Dombivali. In similar way, Aadhar Card bearing No. 9296 7277 0944, shows her address at Dombivali only. She further submits that Nav-Abhinandan Co.op. Hsg. Society Limited issued a certificate dated 01.10.2013 showing that the Respondent is staying in that society at Dombivali since 1990. Even the letter issued by the Company being Exh'E' shows that Respondent is working at New Bombay. Not only that the FIR filed by the Respondent also shows her address of Dombivali.

5 The learned counsel for the Applicant submits that all these documents clearly show that the Respondent though residing at Dombivali, she intentionally filed a petition at Khed, Pune just for harassing the Applicant. She further submits that though the Respondent filed her Affidavit-in-Reply dated 24.06.2019, nowhere she denied all these documents. Therefore, in the interest of justice, this Hon'ble Court be please to transfer the petition filed by the Respondent at Khed to Kalyan for hearing on its own merits.

6 On the other hand, the learned counsel for the Respondent submits that the Respondent temporarily shifted to Khed to take care of her grandfather. Now the grandfather is no more. He further submits that in the interest of justice, this Hon'ble Court be pleased to dismiss the present application.

7 I heard both the sides at length. It is to be noted

that documents placed on record by the Applicant i.e. passport copy, Aadhar card, society's letter, a letter of company where the Respondent is working and FIR clearly show that Respondent is residing at Dombivali. In spite of that in her Affidavit-in-Reply, she stated that she shifted to Otur, Taluka Junner, District Pune. Para 5 of the Affidavit-in-Reply, which reads thus:

*"5. I say that, it is denied that, both parties are permanently stays in the district Thane. I say that, my parents and me have shifted from Dombivali to Otur, Taluka Junner, District Pune in the month of June-July 2018 and right now I am staying at Otur, Taluka Junner, District Pune."*

8 It is crystal clear from all these documents that though the Respondent is residing at Dombivali, she intentionally filed a case at Khed, just for harassing the Applicant.

9 In view of this fact, I am satisfied that Applicant has made out a case for allowing this Application. Not only that Respondent to pay costs of Rs.5000/- to the Applicant.

10 Hence, the following order is passed:

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

*"a) Transfer M.P. No. 298/2018 titled as Mrs. Pushpalata Rahul Dumbre V/s. Mr. Rahul Shivaji*

*Dumbre pending before the Hon'ble 3<sup>rd</sup> Joint Civil Judge, Senior Division at Khed, Pune to Civil Judge, Senior Division, Kalyan Court at Kalyan;"*

- b) Kalyan Court is directed to hear the petition filed by the Respondent under Section 9 of the Hindu Marriage Act after giving full opportunity to the Applicant for filing written statement, reply etc.
- c) Respondent to pay costs of Rs.5,000/- to the Applicant. Costs to be deposited in Kalyan Court within two months from today, failing which her Hindu Marriage Petition No. 298 of 2018 filed under Section 9 of the Hindu Marriage Act, shall stand dismissed without further reference to the court.
- d) Applicant is permitted to withdraw the said costs without furnishing any security.
- e) Misc. Civil Application stands disposed of accordingly.

**(K.K.TATED, J.)**