

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**CIVIL APPELLATE JURISDICTION**  
**MISCELLANEOUS CIVIL APPLICATION NO.134 OF 2021**

Priyanka Srikant Kamurti                      .. Applicant  
Versus  
Srikant Siddheshwar Kamurti              .. Respondent

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Ms.Gauri Surel Shah for the applicant.  
Mr. Vivek N. Machha for respondent.

**CORAM: BHARATI DANGRE, J.**  
**DATED : 27<sup>th</sup> OCTOBER 2021.**

**P.C:-**

1            By the present application, the applicant wife is seeking transfer of proceedings filed by the respondent – husband vide Hindu Marriage Petition No.923 of 2018 for restitution of conjugal rights in the Court at Bhiwandi. The applicant seek transfer of the said proceedings to the Family Court at Solapur, since after parting the company of the respondent, she is residing at Solapur.

2            Certain dates are relevant and are to be noted. The marriage between the applicant and the respondent was solemnized in the year 2013, and on 25<sup>th</sup> February 2015, a male child was born out of the said wedlock. The parties went through a rough phase of marriage which prompted the applicant to leave

her matrimonial home and come to stay in her parental home at Solapur along with her child. In the year 2018, respondent – husband has filed a petition for restitution of conjugal rights and an application has also been preferred in the same Petition under Section 26 seeking custody of the child. The restitution proceedings are pending whereas the application for custody is rejected against which a Writ Petition was filed which was allowed to be withdrawn with liberty to prefer an appeal under Section 28(2) of the Hindu Marriage Act.

3           The proceedings in the Bhiwandi Court are at the stage of evidence. The transfer of the proceedings is sought by the wife on the ground that the petitioner apprehend that the respondent and his family members may cause harm to her since there are several criminal cases lodged against the respondent and his father at Bhiwandi police station. However, the Application is not appended with any details thereof. Another reason which is cited for transfer is to the effect that the distance between Solapur and Bhiwandi is 419 kms and which is a journey required to be undertaken for 9 to 10 hours by train. The submission is that there are no daily trains running between two destinations. The aforesaid statement is disputed by the counsel for the respondent by stating that the journey is barely 6 to 7 hours and there are large number of trains which are plied between the two destinations. In any case, the respondent – husband has offered

that he would ensure that the wife is saved of the strenuous journey and he will arrange for the expenses of the wife to travel by a private taxi and expenses to the said effect, shall be deposited by him in the Bhiwandi Court in advance. He also make a statement that in case if the applicant wife is required to stay back in or nearby Bhiwandi, he shall also arrange for her lodging expenses.

4           On consideration of the rival contention of the parties, it can be seen that the applicant is having a son who is aged 6 years. However, the applicant is not working, whereas the respondent is into a business. It is the respondent who has instituted the proceedings in the Court at Bhiwandi and it is the principle of *dominus litus* which will govern the position and he is at liberty to institute the proceedings at the place of his choice. It is the wife/applicant who is seeking transfer of the proceedings and she will have to make out a case for exercise of the power under Section 24 of the Code of Civil Procedure.

The apprehension expressed by the applicant wife in para-10 is just an imagination and in any case, the respondent husband who has a status in the Society is expected not to resort to any of the tactics which the applicant is apprehending. Furthermore, the child who is now 6 year old, can always be left with the parents if at all, she has to undertake the journey. Now, since the respondent husband has undertaken to arrange for a

private taxi, the applicant wife can comfortably take the child along with her and even any elderly person of the family either her father, mother, or some person can accompany her on the date of hearing so that the apprehension that is expressed by her can be taken care of.

Merely because the applicant is a wife and she is having a son of 6 year old, can be no ground to transfer the proceedings, particularly when the proceedings in the Bhiwandi Court are at the stage of evidence.

5           The learned Civil Judge, Sr. Division, Thane Link Court at Bhiwandi is requested to expeditiously dispose of the Hindu Marriage Petition No. 923 of 2018 which is otherwise pending for more than three years.

It is also directed that the respondent husband shall deposit the actual expenses which are likely to be incurred by the wife for travelling by taxi, in advance, and if she is required to take a halt overnight, on submission of the actual bill, the expenses shall be reimbursed.

6           With the aforesaid direction, Miscellaneous Civil Application is disposed of.

**SMT. BHARATI DANGRE, J**