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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
MISC. CIVIL APPLICATION NO. 156 OF 2021**

Smt. Sayali Pavan VaychalApplicant

V/s

Shri Pavan Anil VaychalRespondent

Mr. S.R. Ganbavle i/b Ms. Pooja Joshi Deshpande for the Applicant.

Mr. Abhishek Kulkarni for the Respondent.

CORAM: NITIN W. SAMBRE, J.

DATE: JANUARY 13, 2022

P.C.:-

1] Heard Mr. Ganbavle, learned Counsel for the Applicant and Mr. Kulkarni, learned Counsel for the Respondent.

2] This is an application under Section 24 of the Civil Procedure Code wherein custody proceedings and restitution of conjugal rights proceedings are sought to be transferred from the file of learned Civil Judge, Senior Division, Pune to the file of learned Civil Judge, Senior Division at Kolhapur.

3] Parties got married on 8/2/2015 and are blessed with minor son Shourya aged above four years who is in custody of the present Applicant-wife. Transfer is sought by the Applicant on the ground that non-applicant/husband has visitation rights and as such he is visiting Kolhapur for attending the child. It is further claimed that it is

difficult for her to travel from Kolhapur to Pune to attend the proceedings, particularly when she is a custodian of a minor son.

4] The issue of aforesaid hardship narrated by the learned Counsel for the Applicant is resisted by Mr. Kulkarni, learned Counsel for the non-applicant on the ground that non-applicant is willing to bear travel expenses of Rs 4,000/- on each date when Applicant attends the proceedings at Kolhapur. According to him, non-applicant is residing with his aged parents and but for non-applicant, there is nobody in the family to take care of his parents. He claims that non-applicant is unable to pay more than Rs 4,000/- per month towards travel expenses as he has other liabilities viz. repayment of housing loan etc.

5] Considered submissions.

6] Having noticed that distance between these two places i.e. Kolhapur and Pune one way is about 350 kilometers and the Applicant is a custodian of a minor son, the amount, as is offered by the non-applicant, appears to be unreasonable to meet travel expenses and out of pocket expenses for the Applicant and her daughter and one companion. It is rightly pointed out by the learned Counsel for the Applicant that the non-applicant/husband is visiting the Applicant so as to have interaction with a minor daughter at Kolhapur.

7] As such, case of hardship is made out by the Applicant in the aforesaid backdrop. That being so Marriage Petition for restitution of

conjugal rights and custody of minor child being Marriage Petition No.659 of 2019 filed by the Respondent before the learned Civil Judge, Senior Division, Pune are ordered to be transferred to the Court of learned Civil Judge, Senior Division at Kolhapur.

8] Application is allowed in the aforesaid terms.

(NITIN W. SAMBRE, J.)