

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

MISC. CIVIL APPLICATION NO.133 OF 2022

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Ashwini S. Patil

..... Applicant

Vs.

Sachin Y. Patil

....Respondent

....

Mr. Anil P. Bagwe for the Applicant.

CORAM: SANDEEP K. SHINDE, J.

DATED : SEPTEMBER 6, 2022

P.C.

1. This Application under Section 24 of the Code of Civil Procedure, 1908 seeks transfer of the proceedings in Hindu Marriage Petition No.381 of 2021, from the Court of Civil Judge, Senior Division, Kolhapur to the Court of Civil Judge, Senior Division, Khed, District: Ratnagiri.

2. Although the Respondent-Non-Applicant, is served, he has not caused his appearance till date. Today none appears for him.

3. Heard learned counsel for the Applicant.

4. Applicant married to the Respondent on 28th February, 2016. For few days, couple was residing at Kolhapur and thereafter shifted to Pune. Out of the wed-lock, daughter was born in October, 2018. As of now, she is three year old. At present, she is residing at Chiplun, District: Ratnagiri. For the reasons, stated in paragraphs 7 and 8 of the application, applicant was compelled to file proceedings against husband under Section 21 of the Domestic Violence Act, 2005 in the Court of Judicial Magistrate, First Class at Khed. Pending proceedings, the learned Judicial Magistrate, First Class at Chiplun directed Respondent-Husband, to hand-over custody of daughter to the applicant. Accordingly, custody of the daughter has been handed over to her. However, Respondent has preferred an appeal against the said order before the learned Additional Sessions Judge at Chiplun. Respondent is prosecuting that appeal.

5. Be that as it may, the Respondent-Husband instituted Hindu Marriage Petition No.381 of 2021 in the Court of Civil Judge, Senior Division, Kolhapur for dissolution of marriage.

6. Learned counsel for the Applicant submits, that applicant is home-maker. She does not have independent source of income. Her daughter is school going child. There is nobody in the family to support her financially or otherwise. The distance between Khed, District: Ratnagiri and Kolhapur is more than 200 kilometers by road. The frequency of Railway is negligible. He submits, even otherwise non-applicant attends the proceedings in the appeal at Khed filed by him against the order passed by the learned Magistrate directing to hand-over custody of daughter to the applicant. It is, therefore, argued that no inconvenience would be caused to the non-applicant if the proceedings are transferred from Kolhapur to Khed.

7. Herein, although the non-applicant-husband has been served, he has not appeared and contested this application. Time and again, the proceedings were adjourned to afford him opportunity to contest the application. Today also, he is not present. Resultantly, the grounds urged for seeking transfer, having not been disputed, application deserves to be granted. Thus, following order;

ORDER

- (I) Application is allowed.
- (ii) Proceedings in Hindu Marriage Petition No.381 of 2021 pending before the Civil Judge, Senior Division, Kolhapur are directed to be transferred to the Court of Civil Judge, Senior Division, Khed, District: Ratnagiri.
- (iii) Application is allowed and disposed of.
- (iv) All to act on an authenticated copy of this order.

(SANDEEP K. SHINDE J.)