

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

MISCELLANEOUS CIVIL APPLICATION NO.302 OF 2022

RUMPA ROY W/O AVLJIT ROY)...APPLICANT

V/s.

AVLJIT PRADIP KUMAR ROY)...RESPONDENT

Mr. Akash Ahire h/f Mr. G.S. Patil, Advocate for the Applicant.

None for the Respondent.

CORAM : ABHAY AHUJA, J.
DATE : 10th NOVEMBER, 2023

P.C. :

1. On 20th October, 2023, the following order was passed, as none had appeared for the Applicant and no copies of the memo had been supplied for the issuance of notice as well:-

“1. On 21st August, 2023, the following order was passed :-

“This application has been filed by the wife seeking transfer of Petition No.A-1270 of 2021 filed by the respondent husband against the applicant and pending before the Family Court at Nagpur to the Civil Judge, Senior Division at Kalyan.

2. This matter has been listed for the first time. However, when the matter is called out, Mr.Patil, learned counsel appears for the applicant and would submit that he is not pressing the application but wants this Court to keep it pending for the reason that settlement talks are going on between the husband and the wife. At his

request, list on 20th September, 2023.”

2. Today when the matter is called out, Mr.Pravin Dabade, learned counsel appears for the Applicant and submits that the settlement talks have failed and therefore, this Court may be pleased to issue notice to the Respondent. Learned counsel would submit that this application has been filed by the wife seeking to transfer petition for restitution of conjugal rights filed by the Respondent-husband at Family Court, Nagpur to the Court of Civil Judge Senior Division, Kalyan. Learned counsel submits that the distance between Kalyan and Nagpur is 793 kilometers one way and travelling by train takes 16 hours, besides the fact that the Applicant is lady.

3. Having heard the learned counsel and having perused the application, issue notice to the Respondent returnable on 20th October, 2023. Private notice is permitted in addition by any legitimate mode including digital mode. Let an affidavit of service with tangible proof be filed by the next date.

4. List on 20th October, 2023.”

2. Today, when the matter is called out, Mr. Ahire, learned Counsel appears for the Applicant and submits that he is holding for Mr. Ganesh Patil and seeks some accommodation submitting that he only has instructions to take time and no other instructions. The remark column in the cause list clearly indicates that the Applicant has not supplied memo copies and therefore, notice could not be issued to the Respondent.

3. As and by way of last chance, list on **1st December, 2023**. It is made clear that if service is not effected on the Respondent by the next date, the Application will stand dismissed, without further reference to this Court.

(ABHAY AHUJA, J.)