

TAUSEEF  
LAIQUEE  
FAROOQUI

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION

MISCELLANEOUS CIVIL APPLICATION NO.83 OF 2022

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Date: 2023.02.06  
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Mrs. Madhubala Vinod Soni ...Applicant

V/s.

Mr. Vinod Gopaldas Soni ...Respondent

WITH  
INTERIM APPLICATION (STAMP) NO.25065 OF 2022  
IN  
MISCELLANEOUS CIVIL APPLICATION NO.83 OF 2022

Ms. Shraddha S. Pawar for Applicant.

CORAM : AMIT BORKAR, J.

DATED : FEBRUARY 03, 2023

PC.:

1. The wife has filed present miscellaneous civil application seeking transfer of Marriage Petition No.796 of 2018 from the learned Civil Judge, Senior Division, Kalyan Court to the learned Family Court at Pune.

2. Marriage between the applicant and the respondent took place on 28<sup>th</sup> April 2017, due to the matrimonial differences between the parties, the applicant filed FIR bearing No.370 of 2018 at Wakad Police Station at Pune. The applicant also filed a complaint under the Protection of Women from Domestic Violence Act, 2005, before the learned Judicial Magistrate, First Class, Pimpri, Pune.

3. The respondent has filed Marriage Petition No.796 of 2018 before the learned Civil Judge, Senior Division, Kalyan seeking divorce under Section 13(1) (i-a) (i-b) of the Hindu Marriage Act, 1955. The applicant has, therefore, filed present application seeking transfer of proceedings from Court at Kalyan to Court at Pune.

4. This Court on 28<sup>th</sup> February 2022, issued notice to respondent. The notice has been returned with the remark, “the respondent not residing at Pune”. This Court on 8<sup>th</sup> June 2022, granted Hamdast to the applicant for effecting service. This Court granted stay to the proceedings before the Court at Kalyan, which is continued from time to time. The notice issued on 8<sup>th</sup> June 2022, has been returned again with remark “not found at given address”. The applicant, therefore, filed an application to serve respondent by publishing a notice in Daily Pudhari Newspaper or Punyanagari Newspaper or any other local newspaper, which has been allowed by this Court by order dated 29<sup>th</sup> November 2022.

5. Learned advocate for the applicant states that the order of stay of proceedings of petition filed by husband has been produced before the Court at Kalyan. The opponent has attended the proceedings after production of interim order. Since the notices are published in local newspaper and the copy of order of interim relief has been produced before the Court at Kalyan, the opponent has constructive notice of pendency of present application. The opponent has not appeared despite service.

6. The applicant on oath has stated that it is inconvenient for her to attend proceedings before Court in Kalyan. She is suffering from various ailments and has been advised to avoid distance travel. In support of the said contention, she has produced medical certificate which is annexed at Exhibit-J to the miscellaneous civil application. According to her filing of petition before the learned Civil Judge, Senior Division at Kalyan is without territorial jurisdiction as both the parties were last resided in Pune.

7. Considering inconvenience caused to the applicant and absence of denial of facts stated in the application, the applicant has made out a case for transfer.

8. For the reasons stated above, application is allowed in terms of prayer clause (b).

**(AMIT BORKAR, J.)**