

Ajay

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

MISC. CIVIL APPLICATION NO. 71 OF 2024

Raju Kant Koli	.. Applicant
Versus	
Komal Raju Koli	.. Respondent

WITH
MISC. CIVIL APPLICATION NO. 324 OF 2024

Komal Raju Koli	.. Applicant
Versus	
Raju Kant Koli	.. Respondent

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- Mr. Mahaling Pandarge, Advocate for Applicant in MCA No.71 of 2024 and Respondent in MCA No.324 of 2024.
 - Mr. Anand S. Patil, Advocate for Applicant in MCA No.324 of 2024 and Respondent in MCA No.71 of 2024.
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CORAM : MILIND N. JADHAV, J.
DATE : SEPTEMBER 19, 2024.

P.C.:

1. Heard Mr. Pandarge, learned Advocate for Applicant in Misc. Civil Application (for short “MCA”) No.71 of 2024 and Respondent in MCA No.324 of 2024 and Mr. Patil, learned Advocate for Applicant in MCA No.324 of 2024 and Respondent in MCA No.71 of 2024.

2. This is a group of twin MCAs before me. MCA No.71 of 2024 is filed by husband on 01.12.2023 seeking transfer of DV Act proceedings filed by wife from the Court of Judicial Magistrate First Class, Kolhapur to the Court of Civil Judge Senior Division, Vadgaon

Maval, Pune. Second MCA No.324 of 2024 is filed by the wife seeking transfer of Marriage Petition filed by Respondent – husband from the Court of Civil Judge Senior Division, Vadgaon Maval, Pune to the Family Court at Kolhapur.

3. At the outset, Mr. Patil would submit that Marriage Petition filed under Section 9 of the Hindu Marriage Act, 1955 has infact been allowed by the Civil Judge Senior Division, Vadgaon Maval, Pune *ex-parte, inter alia*, directing the wife to reside with the husband. This order is passed on 20.07.2024. On learning about the said order, wife has immediately filed Application for recall of the said order which is pending before the Court of Civil Judge Senior Division, Vadgaon Maval, Pune. He would submit that the said Application is listed for hearing on 01st October 2024.

4. Considering the above position and the fact that Marriage Petition has been allowed *ex-parte* and Application for recall of the said order is pending, I direct the learned Civil Judge Senior Division, Vadgaon Maval, Pune Court to ensure that the said Application is duly heard and decided on 01st October 2024 which is the next date. The reason which persuades me to pass the above order is only to ensure that the wife is not put a further degree of hardship and difficulty requiring her to keep on approaching this Court repeatedly in the future.

5. However, I need to express my appreciation for the conduct of Mr. Pandarge, learned Advocate for the husband who has in all graciousness not objected to the passing of the above order after understanding the ethos as to why such an order is passed.

6. Learned Civil Judge Senior Judge, Vadgaon Maval, Pune seized with the hearing of the Application for recall of the order dated 20.07.2024 is directed by this Court to positively hear the Application on 01st October 2024 and decide the same. The said Court is also directed by this Court to take cognizance of a server copy of this order and not insist on production of a certified copy of this order which shall be presented before the Court on 23rd September 2024 at 10:30 a.m.. On the server copy of this order being placed before the Court, the said Court ensure that the recall Application is not derelicted any further and it is decided on 01st October 2024.

7. Needless to state that the husband shall also be heard by the said Court while determining the Application for recall.

8. In view of the above directions, hearing in both the MCAs is presently adjourned to **11th October 2024**.

[MILIND N. JADHAV, J.]

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