

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
MISC. CIVIL APPLICATION NO. 446 OF 2024**

Sou. Ambika Pankaj Pawar ... Applicant
Versus
Shri Pankaj Ankush Pawar ... Respondent

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Mr. Manoj B. Bagal for Applicant.

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**CORAM : MILIND N. JADHAV, J.
DATED : 27th SEPTEMBER, 2024**

P.C. :-

1. Heard Mr. Bagal, learned Advocate for the Applicant.
2. My attention is drawn to the order dated 14th July, 2021 appended at page 21 Exhibit 'D' to the Application. He would submit that MCA 97169 of 2020 was filed previously by Applicant-wife seeking transfer of the marriage petition from the Court of Civil Judge Senior Division, Pune to the Family Court, Solapur, where the Applicant was residing. He would submit that the said MCA was disposed of on the undertaking given to the Court and also noted by this Court in paragraph 2 of the order dated 14.07.2021. He would submit that after initially paying the amount as stated in paragraph 2, Respondent has breached the undertaking and failed to pay any amount to the Applicant-wife. He would submit that contempt petition was filed by the Applicant-wife which was also disposed of on the basis of a fresh undertaking given by Respondent-husband that he will not derelict any

further. He would submit that pursuant to disposal of the contempt petition, the husband paid the arrears but thereafter once again he has failed to abide by the undertaking and pay the amount and therefore, there is a clear breach of the directions contained in paragraph 2 of the order dated 14th July, 2021. In this background, he would submit that Applicant- wife has filed the present application seeking transfer of the proceedings on the ground of hardship to her. He would submit that the Applicant is residing in Solapur along with her parents and she has also filed D.V. Case No. 153/2020 in the Court of JMFC, Solapur. He would submit that Applicant would be required to travel all the way to Pune and incur substantial expenditure and she would require accompaniment of an elder/parent with her. Looking to the hardship of the Applicant-wife and the conduct of the Respondent, he would submit that this Court should allow the present application.

3. On the basis of the above facts which have been enumerated, an arguable case is made out by the Applicant for allowing the application. However the application is listed before this Court for the first time today, hence, I direct issuance of notice to the Respondent. However, I permit the Applicant to serve the Respondent through any permissible mode of service or private service and file affidavit of service. I am

informed that the next date before the Civil Judge, Senior Division, Pune is on 3rd October, 2024. In view of the present MCA, the Learned Civil Judge, Senior Division, Pune is directed by this Court to stay the hearing of the Marriage Petition filed by the Respondent -Husband on that date and defer the proceedings to a future date to enable this Court to decide the present MCA.

4. Hence, issue notice to the Respondent, made returnable on 11th October, 2024. Humdast permitted .

5. In addition to Court's notice, Applicant's Advocate is directed to serve copy of the MCA along with a copy of this order on the Respondent and inform him about the next date of hearing by any permissible mode of service and file appropriate affidavit of service with tangible proof thereof on or before the next date. Respondent shall take cognizance of this order.

6. After receiving the notice, Respondent to file affidavit-in-reply on or before the next date, if so desired with an advance copy to the Advocate for Applicant.

7. Respondent is directed to remain present either by himself or through his Advocate on the next adjourned date. It is made clear that if Respondent remains absent despite service on the next adjourned date, this MCA shall be heard and disposed of

in the absence of the Respondent.

8. Stand over to 11th October, 2024.

(MILIND N. JADHAV, J.)

HARSHADA
HANUMANT
SAWANT

Digitally signed by
HARSHADA
HANUMANT
SAWANT
Date: 2024.10.03
12:00:16 +0530