

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

MISCELLANEOUS CIVIL APPLICATION NO.438 OF 2024

Kedar Prabhakar Kulkarni

...Applicant

vs.

Mokshada Kedar Kulkarni

...Respondent

Ms. Stefy Jolwin Dias, for the Applicant.

None for the Respondent.

CORAM : N. J. JAMADAR, J.

DATE : JANUARY 03, 2025

P.C:

1. The applicant/husband has preferred this application to transfer the Marriage Petition No. A-538 of 2022 pending on the file of Family Court at Sangli to the Court of Civil Judge, Senior Division, Ichalkaranji, District Kolhapur.

2. The marriage of the applicant and the respondent was solemnized on 21st June, 2019. They are blessed with a daughter.

3. In the wake of marital discord, the applicant has filed a petition for dissolution of the marriage under section 13 of the Hindu Marriage Act, 1965. In the said petition, the respondent preferred an application for alimony *Pendente lite*. By an order dated 14th September, 2023, the learned Judge, Family Court has ordered the applicant to pay alimony *Pendente lite* @ 15,000/- per month.

4. The applicant has preferred this application on the ground that the respondent/wife is residing at Ichalkaranji. They have a three and half year old daughter. The respondent finds it inconvenient to attend the proceeding before the Family Court at Sangli and the said fact was urged in the application for *Pendente lite* maintenance.

5. Notice was ordered to be issued to the respondent. The notice has been duly served on the respondent, in person. Bailiff's report of service has been filed. It further appears that by an order dated 11th October, 2024, the applicant was directed to serve the respondent by private service and file affidavit of service. An affidavit of service has also been filed.

6. None appears for the respondent despite the service of notice.

7. From the perusal of the pleadings of the respondent in the petition No. A-538 of 2022, it appears that the respondent is a resident of Ichalkaranji. The said fact becomes evident from the written statement filed to the marriage petition as well as the application for maintenance *Pendente lite*. It is contended that the respondent was constrained to take shelter at her parental home at Ichalkaranji. Thus, the transfer of the proceeding from the Family Court, Sangli to the Court of Civil Judge, Senior Division at Ichalkaranji would suit the convenience of the respondent-wife.

8. Though none appears for the respondent, in the peculiar facts of the case, the transfer of the proceeding from the Family Court, Sangli to the Court of Civil Judge, Senior Division, Ichalkaranji, may not cause any prejudice to the respondent. On the contrary, respondent would be in a better position to effectively defend the petition for divorce if it is tried at Ichalkaranji. I am, therefore, inclined to allow the application.

Hence, the following order.

ORDER

- 1] The application stands allowed in terms of prayer clause (a).
- 2] Marriage Petition A-538 of 2022 pending on the file of Family Court at Sangli stands transferred to the Court of Civil Judge, Senior Division, Ichalkaranji, District Kolhapur, for trial and decision in accordance with law.
- 3] The learned Judge, Family Court, Sangli shall transfer the marriage petition No. A-538 of 2022 to the Court of Civil Judge, Senior Division, Ichalkaranji, District Kolhapur within a period of four weeks from the date of communication of this order.
- 4] It is hereby made clear that since the petition is being transferred from Sangli to Ichalkaranji, at the instance of the applicant/ husband, the latter shall not be entitled to claim any

relief in the said proceeding on the ground that the proceeding has been transferred from Sangli to Ichalkaranji.

Application disposed.

(N. J. JAMADAR, J.)