

Arun Sankpal

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

MISC. CIVIL APPLICATION NO. 481 OF 2024

Varsha Sachin Warpe ...Applicant
Versus
Sachin Shivaji Warpe ...Respondent

Adv. Aashka Shell, i/b Kartik S. Garg, for the Applicant.

CORAM: N. J. JAMADAR, J.
DATED: 7th FEBRUARY, 2025

ORDER:-

1. Heard the learned Counsel for the parties.
2. The applicant – wife has preferred this application seeking transfer of Marriage Petition 'A' No. 86 of 2024 filed by the respondent – husband, from the Court of Civil Judge, Senior Division, Beed, to the Court of Civil Judge, Senior Division at Panvel.
3. The marriage of the Applicant was solemnized with the respondent on 18th February 2013. They were blessed with a daughter on 19th April 2014. It is alleged that the applicant was subjected to mental cruelty and harassment. The applicant filed a proceeding under the Protection of Women from Domestic Violence Act, 2005 ("DV Act") being Criminal Application No. 1280 of 2014 before the learned JMFC

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Court at Panvel. The respondent had filed a Petition for restitution of conjugal rights being HMP No. 99 of 2015 in the Court of CJSD Beed.

4. By an order of 9th February 2022, the said HMP No. 99 of 2015 came to be transferred to the Court of CJSD, Panvel. The respondent has now preferred another Marriage Petition being No. 86 of 2024 in the Court of CJSD, Beed, for dissolution of marriage under Section 13(1) (i-a) and (i-b) of the Hindu Marriage Act 1955.

5. The distance between Kalamboli, where the applicant resides, and Beed is around 200 kms. The applicant does not have the means to effectively defend the proceeding at Beed.

6. An affidavit of service has been filed. It indicates that the respondent had initially refused to accept the service of notice. Subsequently, the notice has been duly served on the respondent. The respondent chose not to appear.

7. Evidently, the Marriage Petition HMP No. 99 of 2015, instituted by the respondent before the Court of Civil Judge Senior Division for restitution of conjugal rights, came to be transferred to the Court of Civil Judge Senior Division, Panvel, pursuant to an order dated 9th February, 2022 passed by this Court in MCA No. 73 of 2019. It is stated that, post transfer, the said Marriage Petition is still sub judice.

8. In the meanwhile, the respondent has instituted another Marriage Petition No. 86 of 2024 for dissolution of marriage. While transferring

the earlier petition, this Court had noted that the respondent had made an assertion in paragraph No. 3 of the said petition that he was serving in a private company at Mumbai.

9. The reasons which weighed with this Court to transfer the earlier Marriage Petition No. 99 of 2015 from the Court of Civil Judge Senior Division, Beed to the Court of Civil Judge Senior Division, Panvel still hold good. Moreover, since the earlier petition has already been transferred, and is sub judice before the Court of Civil Judge Senior Division, Panvel, it would be expedient in the interest of justice that the instant petition, i.e., Marriage Petition No. 86 of 2024 is also transferred to the Court of Civil Judge Senior Division, Panvel, for being heard and decided along with HMP No. 99 of 2015.

10. Hence, the following order.

ORDER

(i) The application stands allowed in terms of prayer clause (a).

(ii) The Marriage Petition No. 86 of 2024 stands transferred from the Court of Civil Judge Senior Division, Beed to the Court of Civil Judge Senior Division, Panvel for hearing and disposal in accordance with law, along with HMP No. 99 of 2015 (already transferred).

(iii) The learned Civil Judge Senior Division, Beed shall transfer the record and proceedings in Marriage Petition No. 86 of 2024 with such dispatch that it reaches the Court of Civil Judge Senior Division, Panvel within a period of four weeks from the date of communication of this order.

Application disposed.

[N. J. JAMADAR, J.]