

Pravina Vs. Bharat

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Court : Mumbai

Decided On : Jan-06-1993

Reported in : I(1993)DMC185

Judge : M.L. Dudhat, J.

Acts : [Code of Civil Procedure \(CPC\) , 1908](#) - Sections 24

Appeal No. : Misc. Civil Application No. 216 of 1992

Appellant : Pravina

Respondent : Bharat

Advocate for Pet/Ap. : N. Kamalakar, Adv.

Judgement :

M.L. Dudhat, J.

1. Rule returnable forthwith. Heard Shri Kamalakar, Advocate for the applicant.
2. The applicant, who is the wife of non-applicant has filed the present application under Section 24 Civil Procedure Code for transfer of Hindu Marriage Petition No. 46/1992 pending before Civil Judge, Senior Division, Washim, District Akola to Nagpur.

3. In her instant application, applicant has contended that her marriage with non-applicant had taken place on 26-5-86 at Risod, District Akola. Non-applicant is serving in Indian Army and at present he is posted somewhere in the Border area. Out of the laid wed-lock, two sons were born, who are at present 5 years and 3 years old respectively. From the date of the marriage till November, 1989, relation between her and the non-applicant were cordial. However, since November, 1989, respondent started ill-treating her and, therefore, she had no other alternative than to leave the matrimonial house and return to her widowed mother. Since then, she herself and her two sons are residing with her widowed mother and are being maintained by her widowed mother. The applicant further contended that the income of her widowed mother is very meager as she is getting only Rs. 700/- as family pension, which is hardly sufficient to meet both the ends of the family consisting of four members.

4. In the meantime, non-applicant filed H.M.P. No. 46/02 for divorce before Civil Judge, Senior Division at Washim. The applicant has also filed an application for maintenance under Section 125 Criminal Procedure Code, 6th Court, Nagpur bearing Misc. Criminal Application No. 234/92.

5. The applicant has further contended that the distance from Nagpur, where she is residing and Washim, where the non-applicant has filed a Petition for divorce is about 300 Kms. and it is not possible for her to attend to that Court every now and then as she has no source of income. The applicant further contends that although the non-applicant has filed a Petition for divorce at Washim, he is not residing there and he has to attend that Court from some Border Area, where he is presently posted. In this circumstance, no inconvenience will be caused to him, if the said Divorce Petition is transferred to Nagpur to any Civil Judge, Senior Division here find the applicant will be able to attend the Court at Nagpur as and when required.

6. Heard Shri Kamalakar on behalf of the applicant. Respondent-N.A. though served remained absent. Taking into consideration, the financial position of the applicant and also the fact that no inconvenience would be caused to the N.A. who is not residing at Washim, it appears to be necessary in the interest of justice to

transfer the said Petition from Washim to Nagpur Court. Hence the following order is passed :

Hindu Marriage Petition No. 46/1992 pending on the file of Civil Judge, Senior Division, Washim. Distt. Akola Bharat More v. Smt. Pravina Bharat More is directed to be- transferred to any Civil Judge, Senior Division, Nagpur. Rule made absolute in terms of aforesaid direction with no order as to costs.

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