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IN THE HIGH COURT OF JUDICATURE AT MUMBAI

CIVIL APPELLATE JURISDICTION

MISC.CIVIL APPLICATION NO. 49 OF 2014

Mrs. Saraswati Sanjay Wadar .. Applicant

Vs.

Mr.Sanjay Raghunath Wadar .. Respondent

Mr.Sagar Ambedkar, Advocate for the Applicant.

Mr.Suleman R.Saudagar, Advocate for the Respondent.

CORAM : R. G. KETKAR, J.

DATE : 29th APRIL, 2015

P.C. :

. Heard Mr.Sagar Ambedkar, learned Counsel for the applicant and Mr.Suleman R.Saudagar, learned Counsel for the respondent at length.

2. By this application under section 24 of Code of Civil Procedure, 1908 (for short 'C.P.C.'), the applicant-wife has prayed for transfer of M.J.Petition No. A-1274 of 2013 filed by the respondent before the Family Court at Bandra, Mumbai to the Family Court at Solapur and the same may be clubbed and tried along with Petition A No. 138 of 2013 filed by the applicant before the Family Court at Solapur.

3. In support of this application, Mr.Ambedkar submitted that the applicant has filed the proceedings under section 12 of the Protection of Women From Domestic Violence Act, 2005 in the Court

of Judicial Magistrate First Class at Solapur. The applicant has also instituted proceedings under section 9 of the Hindu Marriage Act, 1955 (for short 'Act') for restitution of conjugal rights in the Family Court at Solapur. The respondent has instituted Petition under section 13(1)(i-a) of the Act in the Family Court at Bandra, Mumbai. He also invited my attention to paragraph 8 of the application and submitted that for the reasons stated therein, the proceedings instituted by the respondent in the Family Court at Bandra, Mumbai deserve to be transferred to the Family Court at Solapur.

4. On the other hand, Mr.Saudagar submitted that applicant had moved application for interim maintenance as well as travelling expenses from the respondent-husband during the pendency of Petition No. A-1274 of 2013 before the Family Court at Bandra, Mumbai. By order dated 04/12/2013, the Family Court directed the respondent herein to pay travelling expenses to the applicant after production of valid ticket on her hand and also to pay amount of Rs.1,000/- per date when she appeared before the Family Court at Bandra, Mumbai for her residence at Mumbai. He, therefore, submitted that since the respondent is bearing travelling expenses as also he is arranging for her accommodation on the date when the matter is before the Family Court at Mumbai, applicant is not justified in praying for transfer.

5. On the last date of hearing, matter was adjourned so as to enable Mr.Ambedkar to take instructions whether the applicant is still pressing travelling expenses as also amount of Rs.1,000/-for residence. Mr.Ambedkar, upon taking instructions from the applicant, states that applicant is not pressing payment of travelling expenses as also amount of Rs.1,000/- as per clause (3) of the operative part of the order dated 04/12/2013. The statement made by Mr.Ambedkar on instructions, is recorded.

6. Mr.Ambedkar relied upon following decisions.

- i) Anisha Sanjay Hinduja Vs.Sanjay Shrichand Hinduja, 2003(3) Mh.L.J. 139.
- ii) Sumita Singh Vs. Kumar Sanjay and Anr. AIR 2002 SC 396.
- iii) Anita Balkrishna Barge Vs. Balkrishna Sopan Barge, 2011 (1) Mh.L.J. 518.
- iv) Chaya Balaji Birajdar Vs. Balaji Ishwarrao Birajdar, 2011 (2) Mh.L.J. 44.
- v) Sunita w/o Baliram Pande Vs.Baliram Haribhau Pande, 2012 (2) Mh.L.J.143.
- vi) Vijaya Sachin Anurkar (Gurav) Vs. Sachin Vasantrao Anurkar (Gurav), 2012(5) Mh.L.J. 721.
- vii) Sonal Prafull Wani Vs.Prafull Sadashiv Wani, 2012 (5) Mh.L.J. 797.
- viii) Shreya Prashant Agale Vs. Prashant Prakash Agale, 2012(5) Mh.L.J. 943

7. In view thereof as also for the reasons stated in paragraph 8 of the application, applicant has made out a case for

transfer. In view thereof, application is allowed in terms of prayer clause (a) with no order as to costs.

8. It is expressly recorded that applicant will not claim any amount as per clause (3) of the operative part of the order dated 04/12/2013.

(R. G. KETKAR, J.)