

Rane

* 1/3 * MCA-150-2013.sxw
(sr. no.59)
Tuesday, 20/1/2015

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

MISCELLANEOUS CIVIL APPLICATION NO.150 OF 2013

Sou. Pallavi @ Priti Makrand Bartakke

.....Applicant

: V/S :

Mr. Makrand Vilas Bartakke

.....Respondent

* * * * *

Mr. Rahul Walvekar, Advocate for the applicant.

Mr. Bharat M. Sarda h/f. Mr. Manmath Athalye, Advocate for the respondent.

* * * * *

Coram :- Smt. R.P. SondurBaldota, J.

20th January, 2015.

P.C. :-

1). This application is by the wife for transfer of the matrimonial petition filed by the respondent in the Court of Civil Judge Senior Division, Satara. The application is opposed by the respondent contending that, there is no case made out for transfer.

2). Mr. Walvekar, learned Advocate appearing for the applicant submits that, the applicant has already filed proceedings under the Domestic Violence Act, which are pending in the Court of Judicial Magistrate First Class, Belapur and since those proceedings are prior in point of time to the petition filed by the respondent for

Tuesday, 20/1/2015

divorce, it would be convenient for the applicant, if the petition is transferred to the Family Court at Thane. He also submits that the applicant has no independent source of income and has been depending upon her father for financial assistance. There is a son born from the marriage who is aged about 8 years.

3). The respondent has filed affidavit-in-reply to oppose the application by denying the claim of the applicant. Mr. Sarda, the learned Advocate appearing for the respondent also points out that, after service of notice of the divorce petition, the applicant has failed to file her written statement and has been seeking adjournments for the purpose. The Court at Satara, has finally passed the order of “no written statement”. He argues that the applicant is trying to circumvent that order by filing the present application.

4). In the month of August, 2011 the applicant filed proceedings in the Court of Judicial Magistrate First Class at Belapur under the provisions of The Protection of Women from Domestic Violence Act, 2005. The petition for divorce filed by the respondent was on 18th July, 2012. It appears that, thereafter the applicant has filed a private complaint being Criminal Complaint No. 828 of 2013 under Section 498A Indian Penal Code in the Court of Judicial Magistrate First Class, Belapur. The parties have been residing separately since June, 2010. As per the reply filed, the

Rane

* 3/3 * MCA-150-2013.sxw
(sr. no.59)

Tuesday, 20/1/2015

respondent has been paying interim maintenance to the applicant.

5). Considering the statement in the application, the distance from Mumbai to Satara and the fact that the applicant can apply for and can be granted expenses for travel to attend to the court proceedings, in my opinion, no case is made out for transfer. Mere personal convenience of the parties to attend to the place where the proceedings are filed, cannot be a ground for transfer of the proceedings, unless it is established that, such personal inconvenience is likely to result into a specific prejudice or deprivation of right of hearing. Hence, the Miscellaneous Civil Application is dismissed.

(SMT. R.P. SONDURBALDOTA, J)