

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

Misc.Civil Application NO. 225 OF 2015

Mrs. Dipti Niraj Ghorpade (nee Kumari Dipti
Laxman Tayde) ...Applicant
Versus
Shri Niraj Mahadeo Ghorpade ...Respondent

Mr.Amey Bandgar, for the Applicant.

*Mr.Pankaj Sutar with Ms.Trupiti Khadre i/b. M/s.Jayakar &
Partners, for the Respondent.*

**CORAM: G. S. KULKARNI, J.
(IN CHAMBER)**

DATED: 27th April, 2016

PC:-

1. Heard the learned Counsel for the parties. This is an application of the Applicant-Wife under Section 24 of the Code of Civil Procedure read with Section 21A of the Hindu Marriage Act whereby the Applicant prays for transfer of the proceedings pending at Pune Family Court No.2 being Petition No.PA 459 of 2014 to the Family Court at Bandra, Mumbai.

2 The parties have tendered consent terms by which they have agreed to approach the Family Court in a consent divorce petition. These

consent terms are taken on record and marked “X” for identification. It is submitted by the learned Counsel for the parties that these consent terms are arrived after a long course of mediation. These consent terms set out the conditions on which the Petitioner and the Respondent would seek a decree of divorce by mutual consent.

3. However, the concern for this Court is to the clauses and more particularly clauses 4 to 10 which concern the custody of the girl child namely Kavya who is stated to be five years of age. As regards the issue of custody, considering the age of the child and more particularly the child being a girl child, it would be for the Family Court to take into consideration the paramount interest of the child in considering the issue of custody and pass appropriate orders on the issue of custody of the child. This Court would be hesitant to put its seal of approval in respect of any of these clauses which pertain to the custody of the girl child who is merely 5 years of age.

4. As regards the access to the child, the parties have agreed to certain terms about which it is needless to observe that due consideration would also be given to this issue in the interest of both the parents by the Family Court.

5. Learned Counsel for the Respondent fairly agrees that Petition

No.PA.459/2014 pending before the Family Court at Pune be transferred to the Family Court at Bandra, Mumbai.

6. The parties shall accordingly approach the Family Court at Bandra, Mumbai on 27th May,2016. In the meantime, the papers and proceedings of Petition No.PA.459/2014 shall be transferred within a period of fifteen days from the Family Court at Pune to Family Court, Bandra, Mumbai. Office is directed to send intimation of this order to the Registrar, Family Court, Pune for appropriate action in that regard.

7. Both the learned Counsel on instructions of their respective clients submit that they will co-operate for disposal of the pending proceedings between the parties.

8. Miscellaneous Application is accordingly disposed of in the aforesaid terms.

(G. S. KULKARNI,J.)