

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FAMILY COURT APPEAL (STAMP) NO. 14009 OF 2017
WITH
CIVIL APPLICATION (STAMP) NO. 14013 OF 2017

Amarjeet Kaur Badhan	...	Appellant
Vs.		
Jaswinder Singh Ajit Singh Badhan	...	Respondent

Mr.Sanjay Bhojwani for the Appellant.
Mr.Hitesh P. Vyas for the Respondent.

CORAM: R.M.SAVANT &
SMT.SADHANA S.JADHAV, JJ.
DATE : 22nd June, 2017.

P.C.

The order dated 18.3.2017 passed by the learned Principal Judge, Family Court No.1, Pune, rejecting the application filed by the Appellant herein for transfer of the proceedings is taken exception to by way of the above Family Court Appeal. The Petition for Divorce being 385 of 2011 filed by the Respondent-husband is pending before the Family Court No.3, Pune. The Appellant is the Respondent in the said Petition. The Appellant i.e. the original Applicant has filed the application in question for transfer, inter alia, on various grounds mentioned in the said application. The grounds disclose that the Applicant has a grievance in respect of the various orders passed by the learned Judge of the Family

Court. The Applicant has also a grievance of the fact that the Applications Exhibit 150, Exhibit 171 and Exhibit 183 filed by her are still pending before the Court. However, the Family Court is insisting on final arguments in the main Petition. The Applicant has made an allegation against the learned Judge, who is in seisin of the matter on the ground that the learned Judge is pre-judging the case. The Applicant has also a grievance in respect of the fact that the documents have not been exhibited by the learned Judge. The Applicant has a grievance that proper opportunity has not been granted to the Applicant. Each of the aforesaid grounds was tested by the learned Principal Judge, Family Court No.1, Pune, to whom the application for transfer was made. The learned Principal Judge did not find substance in any of the said grounds so as to warrant the transfer of the proceedings from the learned Judge who is in seisin of the matter to another Court. The learned Principal Judge was of the view that the grievance of the Applicant in respect of the orders passed by the learned Judge could not be countenanced in view of the fact that if the Applicant was aggrieved by the said orders, the Applicant could very well have challenged the same.

2. Insofar as the exhibition of the documents is concerned, the learned Principal Judge has observed that the documents can only be

exhibited if they are proved in accordance with law i.e. the provisions of the Indian Evidence Act. The learned Principal Judge has also adverted to the recording in the Roznama and has observed that the said recording discloses that sufficient opportunity has been granted to the Applicant.

3. Having heard the learned Counsel appearing for the Applicant Mr. Bhojwani and having perused the impugned order, we do not find the circumstances to be such as to warrant the transfer of the proceedings to another Court. The allegation of bias which the learned Counsel appearing for the Applicant seeks to urge has to be so strong and has also to be such that the same is writ large on the proceedings. We do not find the instant matter satisfying the said test so as to warrant a transfer. We, therefore, do not deem it appropriate to interfere with the impugned order. The Family Court Appeal is accordingly dismissed. However, we direct the learned Judge of the Family Court to decide the Applications Exhibit 150, Exhibit 171 and Exhibit 183 within four weeks from date and it is thereafter that the learned Judge would take up the main Petition for adjudication.

4. The learned Counsel appearing for the Applicant Shri Bhojwani makes a statement that the Applicant would co-operate in the early disposal of the said Application and would not unduly delay the adjudication. The learned Counsel appearing for the Respondent Mr. Vyas

states likewise. We, therefore, expect the learned Judge of the Family Court to decide the aforesaid pending Applications before she takes up the main Petition for hearing. In view of the dismissal of the FCA, the Civil Application does not survive and to accordingly stand disposed of.

(SMT. SADHANA S.JADHAV, J.)

(R.M.SAVANT,J.)