

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
MISCELLANEOUS CIVIL APPLICATION NO. 250 OF 2017

Shiv kumar @ Sagar Bahel

...Applicant

Vs.

Gurpreet Kaur

....Respondent

Ms. Jai Vaidya for the Applicant.

Mr. Hemant Surve for the Respondent.

CORAM: S. J. KATHAWALLA, J.

DATE: 29th September, 2017

P.C.:

1. By the above Miscellaneous Civil Application filed under Section 24 of the Code of Civil Procedure, 1908, the Applicant-husband seeks transfer of Petition No. A-61 of 2017 filed by the Respondent-wife and pending before the Family Court at Aurangabad to the Family Court at Bandra, Mumbai.
2. The marriage between the parties was solemnised on 27th July, 2015. The Applicant has submitted that at the time of marriage he and the Respondent have executed an affidavit-cum-declaration wherein it is declared by the Applicant husband to the Respondent wife that he is suffering from epilepsy and the

respondent wife has declared to the Applicant husband that she has a damaged retina and is also suffering from blood pressure. The Applicant has submitted that since he is now suffering from epileptic fits more than once in a day, it is not possible for him to travel all the way from Mumbai to Aurangabad to attend to the divorce proceedings filed by the Respondent wife before the Family Court at Aurangabad and therefore the proceedings filed by the Respondent wife be transferred to the Family Court at Mumbai.

3. The Respondent wife has filed a detailed affidavit pointing out that the health problem faced by the Applicant is not as serious as alleged by the Applicant. In support of her case she has made very serious allegations with regard to the life style of the Applicant and has produced several documents including photographs in support of her allegations. She has also submitted that in view of her damaged retina, she has lost vision in one of her eyes and therefore she too will find it very difficult to travel from Aurangabad to Bandra, Mumbai, if the proceedings filed by her before the Family Court, Aurangabad are transferred to the Family Court at Bandra, Mumbai.

4. I am not dealing with the allegations made by the parties against each other and/or the evidence produced before the Court in support of such allegations, since it is admitted in the declaration executed by the parties at the time of their marriage that the Applicant is suffering from epilepsy and the

Respondent has a damaged retina and also has blood pressure problems. In view thereof it will become difficult and inconvenient if either side is asked to travel from one place to another to attend to the divorce proceedings. Keeping in mind the inconvenience that would be caused to both the parties, I pass the following order:

- (i) The Family Court at Aurangabad shall continue to hear the Petition filed by the Respondent wife being No. A-61 of 2017.
- (ii) The Applicant shall not be required to attend the Family Court at Aurangabad to defend the proceedings and he will defend the said Petition by appearing through video conferencing.
- (iii) The Family Court at Bandra shall allow the Applicant and / or his Advocate to use the Video Conferencing facility to enable them to defend Petition No. A-61 of 2017 pending before the Family Court, Aurangabad.
- (iv) The Applicant shall also be at liberty to affirm and verify his pleadings before the Family Court at Bandra and forward the same to the Family Court at Aurangabad which pleadings shall be accepted by the Family Court at Aurangabad.
- (v) The Family Court at Aurangabad shall not grant adjournments to either side unless absolutely necessary.
- (vi) The Family Court, Aurangabad shall endeavour to dispose of Petition No.

A- 61 of 2017 within a period of nine months from the date of this order.

- (vii) The Family Court, Aurangabad shall fix the dates of hearing in advance since the Applicant shall be appearing before the Family Court, Bandra, Mumbai through video conferencing. This order shall not preclude the Applicant from appearing before the Family Court, Aurangabad in person on any date fixed for hearing, if he so desires.
- (viii) All contentions of the parties are kept open.

The above Misc. Civil Application is accordingly disposed off.

(S.J. KATHAWALLA, J.)