

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
MISC. CIVIL APPLICATION NO. 289 OF 2015

Mrs. Monika Ameet Tare ... Applicant

Versus

Mr. Ameet Arun Tare ... Respondent

Mr. Ashutosh Gole for the Applicant.

Mr. Sanjiv Sawant a/w. Ms. Ruchita Kadam for the Respondent.

CORAM : S.J. KATHAWALLA, J.

DATED : 9TH JUNE, 2017

P.C.:

1. The above Misc. Civil Application is filed by the Applicant Wife under Section 24 of the Code of Civil Procedure, 1908 seeking transfer of Petition No. 374 of 2014 filed by the Respondent Husband before the Family Court at Pune along with the Counter Claim filed by the Applicant Wife, to the Family Court at Thane.

2. Though the above Application is filed as far back as on 2nd September, 2015, the above Application was adjourned from time to time to enable the parties to arrive at an amicable settlement, however, the parties failed to settle the matter. By consent of the parties, the above Application is therefore taken up for final hearing.

3. According to the Applicant, the marriage between her and Respondent was solemnized on 8th May, 1999. There is one issue born out of marriage being a boy named 'Aditya' born on 7th April, 2004, who is presently in care and custody of the

Applicant. After the marriage, the Applicant and the Respondent resided at Pune. According to the Applicant, in September-2012 she became aware that the Respondent was having illicit relationship with one Gayatri Kaul. The Applicant in order to save her marriage approached family, friends and even two marriage Counsellors to help her talk to the Respondent. The Respondent did not cooperate and in September-2013 the Respondent dropped the Applicant along with the minor son to her parents place in Pune. He also did not pay maintenance on the ground that the Applicant was working. The Applicant therefore filed a Petition in the Family Court at Pune on 28th March, 2014 seeking relief under the Domestic Violence Act and Hindu Maintenance and Adoption Act. The Respondent also filed a Petition seeking divorce under the Hindu Marriage Act. According to the Applicant, since the grounds alleged by the Respondent in the matrimonial Petition seeking divorce were false, she filed a Counter Claim in the said Petition.

4. The Applicant has submitted that she was earning INR 40,000/- per month at Pune, out of which she was paying INR 20,000/- towards rent. She had to therefore manage all her monthly basic expenses along with the child's educational needs from the remaining INR 20,000/-. Therefore, she was finding it extremely difficult to meet the basic expenses due to the continuous rising cost of living and the rising academic and other extra-curricular expenses of her growing child. According to the Applicant, she therefore had no option but to look for another job to enable her to live a life of dignity and provide financial security to some extent to herself and her

child. The Applicant therefore accepted a job at Mumbai and decided to move to Thane for her and her child's well being and security. Since the Applicant is a single parent and is single handedly raising her son, in order to provide for their basic needs and survival in Mumbai, continuing with her job is critical not only to her, but also for her son's very existence and financial security. She is struggling to settle down in her new job in a new city. Her son is also making efforts to settle down in his new school and in a new city. It is therefore very difficult for the Applicant to travel to Pune every now and then along with her son for the purpose of the case filed in the Family Court at Pune. It is submitted that it would mean additional physical, mental and financial strain on her already overburdened routine. Such frequent travel could affect her career and may run the risk of losing her job and consequently her financial security. The Applicant has submitted that since the child has school all six days of the week (Sunday being the only weekly off), it would be unfair to expect the child to travel to Pune, either for the case or for visitation purpose at the cost of missing school. This will have an adverse impact on his academic progress which is already affected by the situation he is placed in. It would be easier for the Respondent to visit Thane for the case as well as for child visitation given his routine, his lack of constraints and responsibilities, his financial position and the ease of commuting to Thane by his own car / vehicle. It is therefore submitted that the relief sought in the Application be allowed.

5. The learned Advocate appearing for the Respondent has stated that if the

Court at Pune is requested to proceed with the matter expeditiously, the matter can be concluded within a limited period.

6. From the aforestated facts and submissions recorded, I am of the view that even if the Court at Pune is requested to expedite the trial and pronounce its decision within a period of one year, the same will cause grave inconvenience to the Applicant for the reasons set out hereinabove. Instead the Respondent who is in “freelancing business” can visit Thane not only to attend the matter but to also have access to his minor son. In the circumstances, I am of the view that the above Application for transfer is required to be allowed and I therefore pass the following order :

- i. The learned Principal Judge, Family Court at Pune is directed to transmit the papers and proceedings of Petition No. 374 of 2014 along with the Counter Claim filed by the Applicant to the Family Court at Thane.
- ii. The parties as well as the learned Principal Judge, Family Court at Pune and the Principal Judge, Family Court at Thane to act on an authenticated copy of this order.
- iii. Both the parties shall appear before the Family Court at Thane on 10th July, 2017 at 11.00 a.m. and obtain appropriate orders.
- iv. The above Misc. Civil Application is allowed in the aforesaid terms, with no order as to costs.

(S.J.KATHAWALLA, J.)