

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

MISC.CIVIL APPLICATION NO.287 OF 2016

... Mrs.Feona Sachin Ranbhise (nee Macarius) v/s. Mr.Sachin Avinash Ranbhise ... Mr.Sagar Joshi for the Applicant. Mr.Siddharth A.Mehta for the Respondent.	...Applicant ...Respondent
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CORAM : A.A. SAYED J.
DATED : 17 NOVEMBER 2017

P.C.:

This Misc.Civil Application is filed under section 24 of the Code of Civil Procedure by the Applicant-wife for transfer of the Marriage Petition P.A. No.548 of 2016 for divorce and the Application for custody of the child filed by the Respondent-husband in the Family Court at Pune, to the Family Court at Thane.

2. The parties were married at Wesley Church, Colaba, Mumbai on 7 November 2005 and out of the wedlock there is a daughter now aged about 11 years. The Applicant-wife is in employment in Navi Mumbai, BPO. Their matrimonial home was at Pune. Due to marital discord, the Applicant-wife is now residing with her parents at Thane. The Respondent-husband has filed Marriage Petition P.A.No.548 of 2016 in the Family Court at Pune seeking dissolution of marriage on the ground of cruelty. He has also filed

an Application for custody of the minor daughter.

3. Learned Counsel for the Applicant-wife submitted that the Applicant-wife is patient of high blood pressure and has undergone dialysis on 12 occasions and she is still on medication. It is submitted that the Applicant-wife is facing hardship while doing her job. It is contended that the Applicant-wife is looking after her minor daughter and it is not possible for her to attend Family Court at Pune which is at distance of about 160 km. from Thane.

4. Learned Counsel for the Respondent-husband submits that there is nothing placed on record by the Applicant-wife as regards the treatment of dialysis and medication. He submits that the distance between Thane and Pune is not such that she cannot travel and that people do travel between Thane and Pune on a daily basis. There are several witnesses who are required to be examined and it will be convenient that the evidence is recorded in the Family Court at Pune. He placed reliance on the judgment of the learned Single Judge of this Court in the case of **Sou.Pallavi @ Priti Makrand Bartakke v/s. Mr.Makrand Vilas Bartakke**, 2015 SCC Online Bom 1916, wherein the learned Judge did not think it appropriate to transfer the proceedings and held that mere personal convenience of the parties to

attend the place where the proceedings are filed cannot be a ground for transfer of proceedings, unless such personal inconvenience is likely to result into a specific prejudice or deprivation of right of hearing.

5. Having considered the rival contentions, in my view, in the facts of the present case, the convenience of the Applicant-wife is required to be seen. The Applicant-wife is in employment and the minor daughter who is 11 years old is in her custody. The judgment cited on behalf of the Respondent-husband is distinguishable on facts. In the circumstances, the Misc.Civil Application is allowed in terms of prayer clause (a), which reads as under:

“a) the Marriage Petition bearing Number PA 548 of 2016 and application for custody of child filed by the Respondent before the Family Court at Pune be transferred to Family Court at Thane;

6. The Family Court at Pune shall transmit the P.A.No.548 of 2016 alongwith Application for custody of child filed by the Respondent-husband to the Family Court at Thane.

7. Parties to appear before the Principal Judge, Family Court at Thane with copy of this order on 12 December 2017 at 11 a.m., who shall assign

the matter to the appropriate Bench and inform the parties accordingly.

8. The Misc.Civil Application is disposed of accordingly.

All concerned to act on copy of this order duly authenticated by the Registry.

(A.A.SAYED, J.)