

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION

**MISCELLANEOUS CIVIL APPLICATION (ST.) No. 28069 OF 2017**

Avinash Shriram Daivadnya

... Applicant

Vs.

Mrs. Sonali Avinash Daivadnya @

Sonali Vijay Dharashivkar

... Respondent

Mr. Shivraj R. Patil, Advocate for the applicant.

Mr. Rajesh Arvind More, Advocate for respondent No. 1.

CORAM: **MRS.MRIDULA BHATKAR, J.**

DATE: **18<sup>th</sup> April, 2018.**

**P.C.:**

This Application is moved by the applicant/husband under section 24 of the Code of Civil Procedure for transfer of Marriage Petition No. PA-1254 of 2016 for divorce along with connected Applications filed by the respondent/wife in the Family Court No. II, Pune and for transfer of Miscellaneous Criminal Application No. 978 of 2017 under Domestic Violence Act filed before Judicial Magistrate First Class, Court No. IV, Pune to the District Court, Thane or at Phalghar.

2. The learned counsel for the applicant/husband submitted that the applicant is working at Badlapur, Taluka Ambernath, District Thane and respondent/wife is working at Village Khodala, Taluka Mokhada, District Phalghar. He submitted that it is inconvenient for

the applicant/husband to go to Pune along with his parents to attend Family Court as well as Court of Judicial Magistrate First Class. He submitted that the applicant has filed the Application for custody of his 3 years old son in the Family Court, Pune.

3. The learned counsel for the respondent/wife submitted that the respondent is transferred from Village Khodala, Taluka Mokhada to Khadkala, Taluka Mawal, District Pune. The learned counsel produced the order of transfer dated 7<sup>th</sup> March, 2018. The learned counsel submitted that the respondent/wife along with her 3 years old minor son has already shifted from Phalghar to Pune. He submitted that the parents of respondent are staying at Pune and as the marriage is solemnized at Pune, the Petition is filed at Pune. He submitted that the child will join Play Group in this year and so it will not be convenient for the respondent if the matters are transferred from Family Court, Pune to District Court Thane or Phalghar.

4. Considered the submissions. The copy of the order of transfer placed before this Court is taken on record and marked as Exhibit 1. As the respondent/wife has shifted to Pune along with the minor child and the child will join the Play Group in June/July, 2018, I am not inclined to transfer the matters from Family Court, Pune to other

Court. The convenience of the child is to be taken into account when the Application for transfer under section 24 of CPC is decided. However, the respondent/wife has filed two proceedings, i.e., Marriage Petition No. PA-1254 of 2016 for divorce in the Family Court No. 2, Pune and Criminal Miscellaneous Application No. 978 of 2017 under Domestic Violence Act before Judicial Magistrate First Class, Court No, IV, Pune. Under the Family Court Act, the Family Court Judge has jurisdiction to entertain the proceedings under Domestic Violence Act. Under such circumstances, Criminal Miscellaneous Application No. 978 of 2017 under D.V. Act is hereby transferred from the Court of Judicial Magistrate First Class to Family Court, Pune where Marriage Petition No. PA-1254 of 2016 for divorce is pending. The learned Judicial Magistrate First Class, Court No. IV, Pune is directed to send the papers of Criminal Miscellaneous Application No. 978 of 2017 to Family Court, Pune on or before 4<sup>th</sup> May, 2018. The Family Court Judge to conduct all these matters together so that the applicant/husband will have to attend one day for all the proceedings at Pune.

5. Miscellaneous Civil Application is rejected.

**(MRIDULA BHATKAR, J.)**